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PART II—Section 2

प्राधिकार से प्रकाशित

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NEW DELHI, FRIDAY, AUGUST 10, 1990/SRAVANA 19, 1912

इस भाग में भिन्न पृष्ठ संख्या वाली जाति है जिससे कि यह अलग संकलन
को कृपा से इसी तरीके संगें।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following bills were introduced in Lok Sabha on the 10th August, 1990:—

BILL NO. 19 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fortyfirst Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. After article 23 of the Constitution, the following articles shall be inserted, namely:—

Insertion
of new
articles
23A, 23B
and 23C.

“23A. (1) All citizens shall have the right to guaranteed employment and shall be entitled to a house to live and food to eat.

Right to
employ-
ment, etc.

(2) Failing to provide such means as are referred to in clause (1), every citizen shall be given monetary assistance by the State to meet his day to day needs.

Right to
free and
compul-
sory
educa-
tion.

23B. (1) All children upto the age of twenty years shall have the right to free education.

(2) Education shall be compulsory for all children until they have completed tenth class.

(3) The State shall provide free medical and technical education to all those who have secured good marks but are not able to meet the expenses for higher medical or technical education.

Monetary
assist-
ance to
sick and
disabled.

23C. The State shall provide monetary assistance to every citizen who has completed the age of twenty years and remain chronically sick, or is permanently incapacitated or disabled and has nothing to fall back upon and is unable to fend for himself.

STATEMENT OF OBJECTS AND REASONS

Though Directive Principles of State Policy provide for right to work, education and assistance in case of unemployment, old age, sickness and disablement, free and compulsory education for all children, but it is seen that even after a lapse of many years the children have not been provided with free education. The parents of majority of children also can not afford to send their children to schools for minimum education because of their inability to provide all facilities to them. It has also been seen that there are large number of citizens who have no house to live, no food to eat and they are also unemployed. Even the daily necessities of life i.e. shelter, food has not been provided to large number of citizens. Besides, there are children, who even though have got good academic records, have not been provided proper assistance by the Government for higher education as their parents can not afford the high costs of the medical and technical education. The result of this is that a large number of good students are forced to leave their studies and they remain unemployed. Therefore, this Bill seeks to give legal effect to what is contained in the Directive Principles of State Policy.

Hence this Bill.

NEW DELHI;
February 8, 1990.

BASAVARAJESWARI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the payment of monetary assistance to the citizens in case of unemployment, sickness and disablement and also for free and compulsory education to the children up-to tenth class. It also provides that the State shall provide to every citizen a house to live, food to eat and free medical and technical education to all those students who have secured good marks but are not able to meet the expenses of their higher education. It is not possible to give an exact estimate of the amount of recurring expenditure but a sum not exceeding twenty million rupees annually is likely to be spent from the Consolidated Fund of India in respect of Union territories.

There will be no non-recurring expenditure.

BILL No. 16 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990,

Short title.

2. In paragraph 2 of the Tenth Schedule to the Constitution,—

Amend-
ment of
Tenth
Schedule.

(i) in the Explanation to sub-paragraph (1), sub-clause (ii) of clause (b) shall be omitted;

(ii) for sub-paragraph (3), the following sub-paragraph shall be substituted, namely:—

“(3) A nominated member of a House who is not a member of any political party on the date of his nomination as such member, shall be disqualified for being a member of the House, if he joins any political party after such nomination.”.

STATEMENT OF OBJECTS AND REASONS

A member of a House nominated by the President of India, who is not a member of any political party on the date of his nomination, can under sub-paragraph (3) of paragraph 2 of the Tenth Schedule to the Constitution, join any political party within six months from the date on which he takes his seat in the House. This is not in accordance with the spirit of the Constitution. The Constitution, therefore, needs to be amended to the effect that any person nominated by the President, if he is not already a member of any political party, must continue his independent status throughout his term of membership of the House.

This Bill seeks to achieve the aforesaid objective.

NEW DELHI;

February 8, 1990.

BASAVARAJESWARI

BILL No. 14 OF 1990

A Bill to provide free medical and technical education to all students and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|---|--|
| 1. (1) This Act may be called the Providing of Free Medical and Technical Education Act, 1990. | Short title and commencement. |
| (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | |
| 2. In this Act, unless the context otherwise requires, “appropriate Government” means the Central Government in respect of Union territories and State Government in respect of States. | Definition. |
| 3. Every student, irrespective of caste, colour, creed, shall be provided free medical and technical education by the appropriate Government. | Providing of free medical and technical education. |

Students
to be
admitted
on merit.

4. All students eligible for enrolment in a college or an institution where medical or technical education is provided, shall be admitted only on the basis of their performance in the examination required to be taken for being eligible for admission to the college or institution or in the last examination passed by them:

Provided that no other authority except the appropriate Government shall select the candidates for admission to colleges or institutions where medical or technical education is provided.

Prohibi-
tion on
charging
capitation
fee.

5. No college or institution, where medical or technical education is provided, shall charge any capitation fee for enrolling the students.

STATEMENT OF OBJECTS AND REASONS

The problem of providing technical and medical education in the country has been agitating the minds of the youth. No proper selection is being made. All deserving candidates are not allowed to pursue the medical and technical education. The present procedure has created many problems and all those who have wealth can provide medical and technical education to their children and those who are well qualified are being deprived of such education. As a result inefficient medical and technical trained people, are coming out of these institutions. Therefore, it is necessary to provide free medical and technical education to all those who deserve them. If admission for enrolment to these courses is based on the examination conducted by the appropriate Government, the benefit will go to deserving students and it will also produce efficient medical and technical persons.

Hence this Bill.

NEW DELHI;
February 8, 1990.

BASAVARAJESWARI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free medical and technical education by the Government to all students. The Central Government has to incur expenditure in respect of students in colleges and institutions situated in Union territories. The Central Government has also to provide financial assistance to State Governments in this regard. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees ten crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

BILL No. 12 OF 1990

A Bill to provide for banning of migration of doctors and engineers to foreign countries.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Doctors and Engineers (Banning of Migration to Foreign Countries) Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent
and com-
mence-
ment.

2. Notwithstanding anything contained in any other law for the time being in force, any citizen who has obtained a degree in medicine or in engineering from an institution in the country shall not be allowed to migrate to a foreign country for permanent settlement.

Banning
of migra-
tion of
doctors
and
engineers.

3. Any citizen who has taken a degree in medicine or in engineering from any recognised institution in the country, if desires to go to a foreign country for pursuing higher studies or for research work, shall take prior permission from the Central Government in that regard:

Approval
of Gov-
ernment
for pur-
suing
higher

Provided that such permission shall be granted by the Central Government to the citizen only on an undertaking to be furnished by him that he shall come back to the country within a specified period from the date of migration or immediately after he has finished higher studies or research work, whichever is earlier.

etc. by
doctors
and en-
gineers.

STATEMENT OF OBJECTS AND REASONS

A large number of citizens who take their degrees in medicine and in engineering in the country migrate to the foreign countries in the hope of earning more money. They have no will to serve the country which has provided them all the facilities to become a doctor or an engineer. This tendency of the engineering and medical graduates should be curbed by putting suitable restrictions on their migration to the foreign countries. Only such doctors and engineers should be allowed to go out of the country who want to pursue higher studies or to do research work. Such persons should be allowed to go out of the country only when they give an undertaking that they will come back to the country within a specified period or after finishing their higher studies or research work.

Hence the Bill.

NEW DELHI;
February 8, 1990.

BASAVARAJESWARI

BILL NO. 48 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. In article 341 of the Constitution in clause (1) the following proviso shall be added at the end, namely:—

“Provided that a person, belonging to a caste which has been specified as a Scheduled Caste under clause (1) in any State or Union territory, irrespective of his place of residence, shall be deemed to be belonging to a Scheduled Caste for the purposes of this Constitution.”.

Amendment of article 341.

3. In article 342 of the Constitution, in clause (1), the following proviso shall be added at the end, namely:—

“Provided that a person, belonging to a tribe which has been specified as a Scheduled Tribe under clause (1) in any State or Union territory, irrespective of his place of residence, shall be deemed to be belonging to a Scheduled Tribe for the purposes of the Constitution.”.

Amendment of article 342.

STATEMENT OF OBJECTS AND REASONS

India is a country of different religions, castes and sub-castes. Many primitive castes under the impact of feudalism and capitalism were reduced to such a state that they were deemed to be inferior, low and down-trodden. The Constitution of India, framed after independence of the country, contains adequate provisions for economic, social and political advancement and upliftment of these castes which have been termed as Scheduled Castes and Scheduled Tribes. The castes which have been included in the list of Scheduled Castes/Scheduled Tribes on national, State or Union territory level, mostly consist of persons of such castes as have settled down in various parts of the country from their parent place due to exploitation and injustice. But they are deprived of such facilities which were being enjoyed by them before they had moved to other places. For example, 'Dhobi' and 'Passi' are recognised as Scheduled Castes and Scheduled Tribes in U.P. and Bihar States but in several other States they have not been included in the list of Scheduled Castes or Tribes. Owing to this reason, they are deprived of the facilities available to Scheduled Castes. The associations of these castes, members of Parliament and social workers have repeatedly requested the Central Government that these castes should be included in the list of Scheduled Castes and Scheduled Tribes at the national level. The Ministry of Home Affairs had given an assurance to amend the Constitution so as to include them in the list but it has not been fulfilled so far.

These castes normally fulfil all the norms which are essential for their inclusion in the lists of Scheduled Castes and Scheduled Tribes such as untouchability, traditional customs, social, educational and economic backwardness, primitive caste characteristics, etc. In the absence of appropriate legislation on national level, the people born in these castes are deprived of the facilities provided for their educational, economic and social upliftment. Keeping in view the above circumstances, it is desirable that the Government should include Dhobi and Passi castes in the list of Scheduled Castes/Scheduled Tribes on national level in every State and Union territory of India.

Like Dhobies and Passies, there may be other castes which ought to have been specified as Scheduled Castes/Tribes at national level, find a place only in a few States. Hence, a consolidated amendment providing that persons who belong to castes which have been specified as Scheduled Castes/Tribes in any one State or Union territory shall be deemed as Scheduled Castes/Tribes in other States and Union territories also, has become necessary.

The Bill seeks to achieve the above objective.

NEW DELHI;

March 2, 1990.

RAM LAL RAJU

BILL No. 56 OF 1990

A Bill to provide for the declaration and public scrutiny of assets of civil servants.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Declaration of Assets by Civil Servants Act, 1990.

Short title,
extent
and
commen-
cement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint but such date shall not be beyond the period of six months from the date of assent of the Bill.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) 'assets', in relation to a civil servant or a member of his family means his right, title or interest in any movable or immovable property whether as owner, mortgagor, lessor, lessee, *benamidar* or in any other manner whatsoever;

(b) "civil servant" means and includes a member of All India Services constituted under an Act of Parliament and a person appointed to a public service or a post in connection with the affairs of the

Union and who draws a basic salary of rupees two thousand or more per month;

- (c) "Committee" means a committee constituted under section 3;
- (d) "family", in relation to a civil servant means his or her—
 - (i) spouse; and
 - (ii) any other person related to him or her whether by blood or marriage and wholly or substantially dependent upon him or her;
- (e) "Government" means the Central Government;
- (f) "Indian Penal Code" means, the Indian Penal Code, 1860;
- (g) "liability" in relation to any civil servant, does not include liability to the extent of an amount not exceeding five thousand rupees;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "Tribunal" means a Tribunal set up under section 10.

45 of 1860.

Central
Services
Assets
Inquiry
Com-
mittee.

3. (1) There shall be a Committee to be known as the Central Services Assets Inquiry Committee, consisting of fifteen members of Parliament of which ten members shall be from the House of the People and five from the Council of States who shall be elected by the respective Houses from among their own members in accordance with the system of proportional representation by means of the single transferable vote:

Provided that a Minister shall not be elected as a member of the Committee and if a member of the Committee is appointed a Minister, he shall cease to be the member of the Committee from the date of such appointment.

(2) The President of India shall, in consultation with the presiding officers of the House of Parliament, by notification in the Official Gazette, appoint one of the members of the Committee as its Chairman.

(3) The term of the Committee shall be for the duration of a Lok Sabha.

(4) The working of the Committee shall be regulated by rules framed by the Central Government in consultation with the Speaker of the House of the People and the Chairman of the Council of States and notified in the Official Gazette.

(5) The Committee shall scrutinise the declarations of assets and liabilities furnished to it by the civil servants and report to the Houses of Parliament from time to time as to the results of such scrutiny.

Duty of
civil
servants
to declare
assets
and lia-
bilities.

4. (1) Every civil servant shall, within a period of three months from the date of commencement of this Act, furnish to the Committee a declaration in the prescribed form setting out particulars of assets and liabilities of himself and members of his family as on the date of such commencement.

(2) Every civil servant before he assumes charge of his post, shall make a declaration in the prescribed form as required under sub-section (1).

(3) Every civil servant who ceases or has ceased to hold office as a civil servant within six months immediately preceding the commencement of this Act, furnish to the Committee a declaration of his assets and liabilities and those of the members of his family within three months from the date of commencement of this Act.

5. Every civil servant shall, throughout the term of his office, furnish, on or before the thirtieth day of June every year, to the Committee a declaration in the prescribed form of all assets acquired, held or disposed of or any liability incurred by him or by any members of his family during the preceding financial year.

Annual declaration of assets and liabilities.

6. If a civil servant, who has furnished a declaration under this Act, subsequently discovers any omission or mistake in such declaration, he shall immediately after such discovery furnish a statement in the prescribed form to the Committee giving details of the correction alongwith an explanation for such omissions or mistakes.

Correc-tions in the declara-tion.

7. A true copy of all declarations made under this Act shall be made available to the public on payment of a prescribed fee.

Copy of declarations to be made available to public.

8. If a civil servant delays the submission of the declaration for more than a period of thirty days without showing any reasonable cause to the satisfaction of the Committee, he shall be punishable with a fine of rupees two hundred per day during the period of delay till he submits the declaration.

Penalty for delay.

9. If a civil servant is found to have amassed assets disproportionate to the known sources of his income or those of the member or members of his family, a probe shall be conducted by or under the authority of the Committee and the result of such probe shall be laid before each House of Parliament.

Probe by Com-mittee.

10. (1) The Government shall set up a Tribunal to try the cases of civil servants, if any, referred to it by the Committee.

Tribunal.

2 of 1974.

(2) The Tribunal shall have the same powers and privileges as a Sessions Court under the Code of Criminal Procedure, 1973.

45 of 1860.

11. If a declaration furnished by a civil servant is proved to be false in material respect, he shall be liable to perjury and be punishable under section 193 of Indian Penal Code.

Penalty for false declara-tion.

12. (1) If a civil servant is found to have amassed assets disproportionate to the known sources of his income or those of his family member or members without showing any reasonable cause to the satisfaction of the Tribunal, his assets shall be ordered, partly or wholly, to be confiscated irrespective of the fact that such assets stand in the name or possession of any other person.

Penalty.

(2) If, after scrutiny of a declaration, the Committee recommends that the concerned civil servant should be awarded suitable punishment under this Act or for violation of any other law, the Government shall

prosecute, notwithstanding anything contained to the contrary in any other law for the time being in force, such civil servant before the Tribunal.

(3) If a civil servant is found to have acquired assets by misusing his official position, he shall also be punished with imprisonment which may extend to seven years but which shall not be less than six months.

Power
to make
rules.

13. (1) The Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the Committee shall be constituted under section 3 and its working regulated;

(b) the form in which declarations shall be furnished under section 4;

(c) the manner in which the declaration shall be scrutinised;

(d) the administrative arrangements with regards to the custody of the declarations and any other documents furnished under this Act;

(e) any other matter necessary to carry out the provisions of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree to make any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It is a matter of common knowledge that some of the civil servants have amassed assets disproportionate to the known sources of their income. Very often such assets are held in *benami* or in the name of their family members. The arm of law does not extend to them in many cases. The existing departmental requirement of furnishing returns of property by civil servants is neither adequate nor effective. In any case, once a person chooses to work as civil servant, his assets and liabilities should be known to the legislatures and through them to the public whom the civil servants are supposed to serve. The Bill seeks to provide for measures necessary to ensure that civil servants do not amass assets disproportionate to the known sources of their income by virtue of their official position.

Hence this Bill.

NEW DELHI:

K. RAMAMURTHY.

February 9, 1990.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Committee to scrutinise the declarations of assets and liabilities furnished by the civil servants. Clause 10 provides for setting up a Tribunal to try cases of civil servants referred to the Government by the Committee. Some staff will have to be provided to assist the Committee and the Tribunal in carrying out their functions and for other administrative work. The Bill, therefore, if enacted is likely to involve recurring expenditure of about rupees ten lakhs per annum from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees twenty lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill provides for the making of rules for giving effect to provisions of the legislation and, in particular, for the various matters referred to in that clause.

The matters in respect of which rules may be made pertain to matters of form, administrative details or procedure and as such the delegation of legislative power is of a normal character.

BILL NO. 70 OF 1990

A Bill further to amend the Indian Penal Code.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1990.

(2) It shall be deemed to have come into force on the date of the introduction of the Bill in the House of the People.

45 of 1860. 2. After Chapter VA of the Indian Penal Code, the following chapter and sections thereunder shall be inserted, namely:—

“Chapter VB

OF OFFENCES RELATING TO FOREIGN EXCHANGE

46 of 1973. 120C. Whoever, within or outside India, aids, or abets, in segregating foreign exchange in a foreign country in contravention of any of the provisions of the Foreign Exchange Regulation Act, 1973, shall be guilty of the offence of criminal conspiracy and shall be punishable under section 120B.

Short title and commencement.

Insertion of New Chapter VB.

Criminal conspiracy in foreign exchange.

Penalty
for mani-
pulation
of docu-
ments.

120D. Whoever manipulates or abets in manipulation of documents with a view to segregate foreign exchange in violation of any of the provisions of the Foreign Exchange Regulation Act, 1973, or any other law for the time being in force to regulate inflow or outflow of foreign exchange, shall be punished with imprisonment for a term which may extend to fifteen years but which shall not be less than five years and shall also be liable to fine which may extend to ten times the value of foreign exchange involved in the act of manipulation of documents.

46 of 1973.

Penalty
for segre-
gation of
foreign
exchange.

120E. Whoever is found to have kept and maintained secret accounts in a foreign country with any bank, financial institution, firm body or individual in his own name or in the name of any one else, whether individual, firm or a body corporate or institution with the intention of segregating the foreign exchange in violation of any of the provisions of the Foreign Exchange Regulation Act, 1973, or any other law for the time being in force to regulate inflow or outflow of foreign exchange, shall be punished with rigorous imprisonment for a term which may extend to fifteen years but which shall not be less than seven years and with fine which may extend to ten times of the foreign exchange detected to have been segregated.

46 of 1973.

Penalty
not to
be con-
current.

120F. Notwithstanding anything contained in any other law for the time being in force, if a person is punished for offences under more than one section of this Chapter, the punishment shall not run concurrently.

Appli-
cation of
the Fore-
ign
Exchange
Regula-
tion
Act, 1973
not barred.

120G. The provision of this Chapter shall be operative without prejudice to any penal provision contained in the Foreign Exchange Regulation Act, 1973, and any action taken or proposed to be taken under that Act.”

46 of 1973.

STATEMENT OF OBJECTS AND REASONS

The evil of secret segregation of foreign exchange is causing the biggest drain on the country's economy. Initially it was confined mainly to businessmen. Later on, certain unscrupulous politicians with some clout, disloyal bureaucrats and business executives and dishonest persons in certain professions joined hands with the businessmen in illegally keeping their wealth outside the country. Right from 1947, when the Foreign Exchange Regulation Act was enacted, these people have been cheating the country by conspiring with foreign sellers or buyers or others in manipulating documents and diverting enormous amounts of money to their secret accounts in foreign banks. The law enacted in 1947 was considered inadequate and amended from time to time till it was replaced by the present Foreign Exchange Regulation Act in 1973 after taking into consideration the recommendations of the Study Team on "Leakage of Foreign Exchange through Invoice Manipulation" and/or the Law Commission's recommendations made in their 47th Report on the "Trial and Punishment of Social and Economic Offences". However, the clandestine outflow of foreign exchange has not declined. It has, rather increased as the International Monetary Fund Study had concluded a few years ago.

The offence of cheating the country of its legitimate foreign exchange is more heinous and grave than offences like murder and dacoity.. It upsets and damages the economy of the entire working people who are engaged in production of goods and materials. It is, therefore, felt that if this evil has to be curbed, it could be done only if severe punishment is visited to the offenders. Punishment for such offences has to be exemplary and not merely reformatory. Hence, all those who aid or abet or connive at, in the commission of acts violating the foreign exchange regulation law should also be punished for "criminal conspiracy". Further, not only keeping and segregating foreign exchange, but also the act of manipulating documents with a view to clandestinely segregate foreign exchange should be treated as offences requiring severe punishment.

The Bill, therefore, seeks to provide for punishment for acts and omissions in relation to secret segregation and diversion of foreign exchange.

NEW DELHI,
April 9, 1990.

K. RAMAMURTHY

BILL No. 62 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new article 48B.

2. After article 48A of the Constitution, the following article shall be inserted, namely:—

“48B. The State shall take steps to set up a Corporation to regulate, develop and protect the inter-State rivers, river valleys and mountain ranges spreading in two or more States.”.

Setting up of a corporation to regulate, develop and protect inter-State rivers, etc.

3. In the Seventh Schedule to the Constitution, in List I—Union List, for entry 56, the following entry shall be substituted, namely:—

Amendment of Seventh Schedule.

“56. Regulation, development and protection of inter-State rivers, river valleys and mountain ranges spreading in two or more States.”.

STATEMENT OF OBJECTS AND REASONS

Under the existing entry 56 of the Union List in the Seventh Schedule to the Constitution, the Union Government is empowered to develop and regulate the inter-State rivers and river valleys to the extent the Parliament declares by law that such regulation and development by the Union Government is expedient in the public interest. There is no reference to mountain ranges like Himalayas that spread in two or more States. The experience has shown that many inter-State rivers and river valleys could not be developed for long due to reluctance on the part of the States concerned to come to an agreement about the sharing of benefits as well as the expenditure incurred on such development. Even today a number of inter-State rivers and river valleys have not been developed because either the States concerned have disagreements over their developmental projects or they do not have adequate funds for the implementation of these developmental projects. All this has resulted in the wastage of valuable water resources and denuding of the mountains.

It is, therefore, necessary that the Union Government should set up a Central Corporation to develop the potential of the rivers and mountains in the country. The Union Government should also be the arbiter in the matter of regulation, development and protection of such rivers, river valleys and mountains.

Hence this Bill.

NEW DELHI;
April 9, 1990.

K. RAMAMURTHY

BILL No. 79 OF 1990

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Representation of the People (Amendment) Act, 1990.

Amendment of section 8.

2. In section 8 of the Representation of the People Act, 1951 (hereinafter referred to as a principal Act), in sub-section (1), in clause (i), the words "or section 135A (offence of booth capturing)" shall be omitted.

43 of 1951.

Insertion of new section 10B.

3. After section 10A of the principal Act, the following section shall be inserted, namely:—

Disqualification on ground of booth capturing.

"10B. If a candidate at an election or his election or polling agent is guilty of an offence under section 135A of this Act, such candidate shall be disqualified for a period of fifteen years from the date of such conviction.

Explanation.—For the purpose of this section a notification issued by the Election Commission to the effect that the candidate at an election or his election or polling agent was involved in booth capturing, shall be conclusive a proof of the effect.

4. In section 135A of the principal Act, in the *Explanation*, for clause (b), the following clause shall be substituted, namely:—

“(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting or allowing such persons to cast votes who are not entitled to vote in that polling station;”.

Amend-
ment of
section
135A.

STATEMENT OF OBJECTS AND REASONS

India is proud of its democracy. During the last 42 years it has taken deep roots and India ranks as the largest democratic country in the world.

However, certain recent developments have caused serious concern to all democratic minded people. The cases of violence, intimidation of voters, etc. during elections, commonly known as "booth capturing", in a blatant manner have set at naught the democratic process and vitiated the peoples' mandate. Some drastic measure shall have to be taken to put a stop to these acts. The present bill seeks to disqualify the candidate at an election for 15 years in whose favour a booth is captured.

Hence this Bill.

NEW DELHI;
April 10, 1990.

MULLAPPALLY RAMACHANDRAN

BILL NO. 80 OF 1990

A Bill to provide for the constitution of a Council at the Centre and in each State and Union territory for the protection of environment and ecology.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Council for Environment Protection Act, 1990.

Short title,
extent
and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "acts harmful to the environment" shall mean and include all acts and things done by individuals, institutes, Government bodies, etc. that pollute or are likely to pollute the environment or cause changes in ecology, flora and fauna of a region to an extent

that harms mankind or materially changes the existing environment or leads to the extinction of any species of plants or animals; and

(b) "environment" means and includes water, both surface and underground, air, and land including the surface of the earth, sub-soil and the forests (the flora and the fauna) and the inter-relationship which exists amongst and between water, air and land, and human beings, other living creatures, plants.

**Appoint-
ment of
Councils
for En-
viron-
ment
Protec-
tion.**

3. (1) The Central Government shall appoint a Central Council for Environmental Protection, (hereinafter referred to as the Central Council) consisting of five members who are experts in the field of environmental protection, ecology preservation, geology, ornithology, zoology, botany etc.

(2) The Central Council shall have its office at New Delhi.

(3) The Central Government shall appoint a State Council for Environment Protection (hereinafter referred to as the State Council), consisting of three members who are experts in the field of environment or in such field as may be determined by the Central Government in every State and Union territory.

(4) The State Councils shall have their offices at the respective capital of each State and Union territory.

(5) The Councils shall function under the control of Union Ministry of Environment and Forests.

**Powers
and
functions
of
Central
Council.**

4. The Central Council shall have the following powers and functions—

(a) to study, enquire and conduct research into problems of environmental protection or preservation of ecology involving subjects under the Central Government or involving more than one State or Union territory;

(b) to enquire into any matter relating to environment or ecology which any State Council deems urgent or extensive enough to necessitate deeper enquiry/study;

(c) to study and enquire into problems of pollution of oceans within our territorial waters;

(d) to recommend to the Central Government or concerned State Government the steps to be taken for the environmental/ecological protection;

(e) to aid and advise the State Councils in matters of research, environmental studies and connected matters;

(f) to receive Reports of State Councils and to decide upon further course of action; and

(g) to issue orders of injunction *suo moto* or at the request of any State Council, against any person, institute or Government body in respect of acts deemed to be harmful to the environment or eco-

logy and the order issued shall be final unless an order vacating the injunctions is obtained within six months from any High Court having jurisdiction over the subject matter or area or a major portion thereof.

5. Every State Council shall have the following powers and functions—

(a) to study, enquire into and do research upon the problems of environment and ecology in the respective State/Union territory;

(b) to study and do research upon causes and effects of natural calamities;

(c) to study and do research into pollution of water, air, land (sand), agriculture, marine and dairy produce, etc. or any such matter as is likely to harm human health;

(d) to recommend to the respective Government of the State and Union territory the steps to be taken for environmental protection and preservation of ecology;

(e) to issue orders of injunction against any person, institute or Government body in respect of acts deemed harmful to the environment or ecology and the order of injunction issued by such State Council shall take effect immediately and shall become final and binding on the expiry of six months from the date of order unless the person, institute or Government body, against whom the order is passed, obtains an order of a competent Court, not below the rank of District Judge, vacating the injunction within that period:

Provided that the State Council and/or the aggrieved party may file appeal against the order of the District Judge before the High Court.

6. The Central and State Councils shall be appointed for a period of five years and on expiry of such period any member thereof may be re-appointed for such further period or periods, not exceeding two years at a time, as the Central Government deems fit.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any enactment other than this Act.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Powers
and
functions
of State
Councils.

Tenure
of Coun-
cils.

Over-
riding
effect of
the Act.

Power
to make
rules.

STATEMENT OF OBJECTS AND REASONS

Urgent steps to protect environment and maintain ecological balance have become essential in view of increasing environmental pollution.

The Bill seeks to provide for the constitution of Councils at the Centre and in every State and Union territory for study, enquiry, research and making recommendations on matters relating to protection of environment and preservation of ecology.

Hence this Bill.

NEW DELHI;

MULLAPPALLY RAMACHANDRAN

April 11, 1990.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the Council for Environment Protection at the Centre and in every State and Union territory. The Bill if enacted, will involve expenditure from the Consolidated Fund of India.

It will involve a minimum annual expenditure of about rupees fifty lakhs by way of salaries, etc. for members of the Councils and other staff.

It will also involve a non-recurring expenditure of rupees two lakhs and fifty thousand from the Consolidated Fund of India for office infrastructure at the Centre and in every State/Union territory.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only the delegation of legislative power is of a normal character.

..

BILL No. 95 OF 1990

A Bill to provide for a comprehensive crop insurance scheme so as to protect the farmers from loss of crops in natural and other calamities and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Crop Insurance Act, 1990.
Short title.
2. In this Act, unless the context otherwise requires,—
 - (a) "Authority" means an Appellate Authority constituted under section 7;
 - (b) "bank" means any bank nationalised or otherwise from which loan has been taken by a farmer;
 - (c) "crop" means and includes wheat, rice, jawar, bajra, maize, rai, soyabean, sugar-cane, cotton, grapes, all types of vegetables, oil seeds, all type of pulses and horticulture and any other agriculturalDefinitions.

commodity which may be notified from time to time by the Central Government in the Official Gazette;

(d) "farmer" means a person who is cultivating the land and growing various crops irrespective of the size of the land;

(e) "Scheme" means the Crop Insurance Scheme framed under section 3; and

(f) "Society" means a Co-operative, Credit or multi-purpose Society registered under the Co-operative Societies Act, 1912.

2 of 1912.

Crop
Insurance
Scheme.

3. (1) The Central Government shall frame a scheme to be known as the "Crop Insurance Scheme" for compulsory insurance of all crops.

(2) The Scheme shall, *inter alia*, provide, for the following namely:—

(a) the terms and conditions of crop insurance;

(b) the extent to which the insurance loss may be covered; and

(c) the rate of premium to be paid by the farmers.

4. (1) The Central Government shall administer the Scheme.

(2) It shall be the responsibility of the Central Government to pay the insurance amount to the farmers for the loss of any crop suffered by them due to any natural or other calamity out of the Crop Insurance Fund constituted under section 5.

(3) The Central Government shall assist the Governments of the States initially to set up and maintain the machinery for the calculation of annawari of the various crops.

(4) The unit for assessment of insurance claims shall be a village.

Premium.

5. (1) The premium of crop insurance shall be paid to the Central Government by the farmers either individually or through the cooperative societies and if farmers are not able to pay the premium, they shall be given loans by the banks or societies for this purpose:

Provided that the small and marginal farmers of areas affected by natural and other calamities or of desert or drought-prone areas shall be exempted from paying the premium.

Explanation.—For the purposes of this section "small and marginal farmer" means a farmer who owns six hectares of wet land or ten hectares of dry land.

(2) The premium so received from the farmers shall be deposited in a Fund, to be known as "Crop Insurance Fund", to be established by the Central Government.

(3) The Central Government and every State Government shall contribute to the Fund in such ratio as may be determined.

(4) The loan given to farmers for payment of insurance premium shall be repayable by farmers with simple interest, at a rate to be fixed by the bank or society, in twelve equal monthly instalments.

6. (1) Every farmer in an area affected by natural calamities like flood, drought, cyclone, etc. shall be given such amount, as may be determined by the Central Government, as long term loan, by the banks or societies, for carrying out the agricultural operations.

Loans to farmers in areas affected by natural calamities.

(2) The loan shall be repayable in such monthly instalments and over such period as may be determined by the Central Government.

7. (1) An Appellate authority shall be constituted in every district to hear and settle the appeal of the farmers against the award of compensation for the loss suffered by them.

Appellate Authority.

(2) The Authority shall consist of a Chairman, to be appointed by the Central Government and such other officers and staff as may be required for carrying out the purposes of the Act.

(3) The Authority shall associate representatives of the farmers of the area at the time of assessment of loss suffered by the farmers of area.

(4) The decision of the Authority shall be final.

8. In case of any loss to farmers by using advanced technology for better production of crops the risk shall be covered by the Scheme framed under this Act as a special incentive.

Covering of risk for use of new technology.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It is a known fact that despite industrial and technological developments in India, it is essentially and primarily an agricultural country. The whole economy of the country depends upon the well being of farmers and on agricultural produce. As the agriculture is based on monsoon, there is always a position of uncertainty as to the quantity of foodgrains which will be produced. Even though our development schemes, increased irrigation facilities, small and big dams, fertilizers, better seeds and agricultural research centres have helped in increasing the food production, our agriculture is still primarily based on monsoon.

No doubt the Government is aware of the interests of the farmers, much still needs to be done to make them self-reliant and secure against natural calamities like drought, flood, cyclone and pests and to guard them against such calamities. In these circumstances, the absence of a compulsory insurance scheme for crops is a misfortune. This scheme has been started in some areas but its impact is not seen all over the country. There are also shortcomings in this scheme. The achievements of this scheme have been far from satisfactory in so far as the interests of farmers are concerned. Our existing experience of Tehsil as a unit for assessment of loss is not much beneficial to the needy farmers who suffer from various kinds of natural and other calamities. It is, therefore, desirable that village should be treated as a unit. All crops should be covered under the scheme and it should be extended to all the agriculturists. Further, the insurance should be based on productivity and not on the basis of loan borrowed from the banks. Therefore, there is need for starting a comprehensive crop insurance scheme.

Hence this Bill.

NEW DELHI;

April 11, 1990.

BALASAHEB VIKHE PATIL.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for framing of a Crop Insurance Scheme. Clause 4 provides that the Central Government shall administer the scheme. It also provides that it shall be the responsibility of the Central Government to pay to the farmers the insurance amount due to loss of crops by natural and other calamities and that the Central Government shall help the State Governments in calculating the loss. Clause 5 provides that the Central Government and every State Government shall contribute in the Crop Insurance Fund. Clause 7 provides for appointment of an authority for hearing appeals against award of compensation due to crop loss. Clause 8 provides that in case of any loss to farmers by using advanced technology for better production of crops, the total risk shall be covered under the Crop Insurance Scheme as a special incentive. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees four crores per annum.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL No. 89 OF 1990

A Bill to provide for recognition of public interest litigations and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows :—

1. (1) This Act may be called the Public Interest Litigation Act, 1990. Short title,
extent and
commencement.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
- (a) “Court” means any court in India including the Supreme Court of India, High Courts, revenue Courts and Tribunals;
- (b) “Judge” means a presiding officer of the Court;
- (c) “prescribed” means prescribed by rules made under this Act; and

(d) "public interest litigation" means a case arising out of a petition submitted to Court personally or by post by a petitioner narrating a public or a private grievance for the consideration of the Court.

Registration of public interest litigation

3. If any court receives a public interest litigation from any Indian citizen, the subject matter of which is within the jurisdiction of that Court, the Court shall order the registration of the public interest litigation in a register to be maintained in the manner to be prescribed.

Examination of petitioner.

4. The Court shall issue summons to the petitioner, whose petition has been registered under section 3, to appear before the Court and if the petitioner express his inability to appear before the Court, the Judge shall appoint a Commission to examine the petitioner at the place of his residence.

Court to determine retention/deletion of public interest litigation.

5. The Court, after receiving the report of the Commissioner and upon making such inquiry as it deems fit may either order that the public interest litigation be retained or deleted from the register maintained under section 3.

Legal assistance to petitioners.

6. If the public interest litigation is retained under section 5, the Court shall recommend the case—

(a) to the appropriate authority under the Legal Services Authorities Act, 1987, for legal assistance to the petitioner, who is entitled to receive such assistance under section 12 of the Legal Services Authorities Act, 1987.

(b) to the Central Government for free legal assistance to the petitioner, who is not entitled to receive free assistance under Legal Services Authorities Act, 1987, in presenting the case before the court.

Power to make rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the form and the manner in which the register under section 3 shall be maintained;

(b) matters relating to the appointment of Commission under section 4;

(c) guidelines for retaining and deleting public interest litigations from the register under section 5;

(d) any other matters which is required to be prescribed, or may be prescribed.

39 of 1987.

STATEMENT OF OBJECTS AND REASONS

A category of litigation known as public interest litigation has recently developed in this country to a considerable extent. The precedent of admitting and entertaining this category of litigation was first established by the Supreme Court of India. Even informed letters written by citizens to the Supreme Court are treated as Writ Petitions and reliefs are granted on issues of public importance.

Taking the cue from the Supreme Court, people have now started writing letters to the Supreme Court and other Courts in the country. Courts have their own procedure, laid down by the rules, to entertain and try various types of cases. As far as public interest litigation is concerned, there is no law on the subject. Critics strongly oppose the system of entertaining public interest litigations as they are entertained by the Judges disregarding the rules of the procedure.

As the objective of the public interest litigation is laudable, and at the same time, the category of litigation which has the potential of serving social causes should not be discarded as being contrary to the rules of Courts, a law on the subject is the need of the hour.

The Bill provides for the entertainment of the public interest litigations by all types of courts including Supreme Court of India, High Courts, revenue Courts and Tribunals so as to recognise the system of public interest litigation.

Hence this Bill.

NEW DELHI;

April 12, 1990.

P. VALLAL PERUMAN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for appointment of the Commission by the Courts to examine the petitioner. Clause 6 provides for recommending the cases of public interest litigation to the appropriate authorities under the Legal Services Authorities Act, 1987 or to the Central Government for providing free legal assistance to the petitioners.

The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India, which cannot be estimated at this stage. However, it is likely to involve an annual recurring expenditure of about rupees three lakhs.

No non-recurring expenditure is likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 91 OF 1990

A Bill to provide for recognition of all Scheduled Castes and Scheduled Tribes welfare associations and to provide facilities to them.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|--|
| 1. (1) This Act may be called the Scheduled Castes and Scheduled Tribes (Recognition of Welfare Associations) Act, 1990. | Short title and extent. |
| (2) It extends to the whole of India. | Definition. |
| 2. In this Act, 'association' means the Scheduled Castes and Scheduled Tribes welfare association formed in any public sector unit or private sector unit or in the offices both under the Central and State Governments. | Definition. |
| 3. Notwithstanding anything contained in any other law for the time being in force, all associations which apply to the Central Government for recognition, shall be duly recognised by the Central Government and shall be equated at par with the recognised trade unions. | Recognition of Scheduled Castes and Scheduled Tribes Welfare Associations. |

Facili-
ties to
recog-
nised
associa-
tions.

4. All the recognised associations shall be provided with free accommoda-
tion, free electricity and water, office furniture and office stationery
upto rupees two hundred and fifty per month by the Central Government.

STATEMENT OF OBJECTS AND REASONS

There are many registered Scheduled Castes/Scheduled Tribes welfare associations in the country with the sole motive of representing for the legitimate and genuine interests of the members belonging to the Scheduled Castes/Scheduled Tribes communities. Since the said associations are not recognised and thus deprived of a legal status, they are not in a position to function effectively to cater to the needs of these down-trodden community people.

In the institutions under Central/State Governments and public/private sector industries and undertakings, only the recognised trade unions are involved in the participation of talks between the management and employees and the grievances of the Scheduled Castes/Scheduled Tribes people are also expected to be represented only by the unions.

In practice, the trade unions do hesitate to take up the grievances of Scheduled Castes/Scheduled Tribes with the management for obvious reasons and due to their differences on the Government's reservation policy. Majority of the trade unions are against the Government's policy of reservation to Scheduled Castes/Scheduled Tribes in educational institutions and in Government services.

Although the Government policy provides for many privileges and rights to the Scheduled Castes/Scheduled Tribes, they are not being given to them by the management in many cases and for want of recognition, these associations are not able to represent to the management their grievances nor the trade unions take them up.

This problem can be overcome only by recognising the Scheduled Castes/Scheduled Tribes welfare associations and placing them at par with the recognised trade unions.

The representatives of the associations should be associated in all the meetings held by the management with the employees in respect of all matters governing the service conditions and other union activities, etc.

The associations have not, so far, been provided with any essential facilities for their day-to-day functioning. They should, therefore, be provided with free accommodation, electricity, water, furniture, stationery, etc.

Hence this Bill.

NEW DELHI;

April 12, 1990,

P. VALLAL PERUMAN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government shall provide free accommodation, free electricity and water, office furniture and office stationery upto rupees two hundred and fifty per month to the Scheduled Castes and Scheduled Tribes welfare associations. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

An annual recurring expenditure of about rupees twenty-five lakhs is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees twenty lakhs is also likely to be involved.

BILL No. 92 OF 1990

A Bill to provide for payment of pension and provision of other rehabilitation facilities to old persons.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Old Age Pension and Rehabilitation Act, 1990.

Short title.
extent
and
commen-
cement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "appropriate Government" means in the case of a State, the State Government and in the case of a Union territory, the Central Government; and

(b) "old person" means any person who has attained the age of sixty years or more and who has no independent and adequate means of livelihood.

Pension
to old
persons.

3. (1) Every old person shall, on an application made in the prescribed form, be paid rupees five hundred per mensem as pension, by the appropriate Government.

(2) The pension payable shall be subject to alteration on the basis of the prevailing cost-index as may be determined by the Central Government.

(3) The pension referred to in sub-section (1) shall be disbursed to old persons by the appropriate Government through Government Treasury or any branch of nationalised bank as may be prescribed by the Central Government.

Facilities
for infirm
persons.

4. The infirm from amongst the old persons shall be kept in "Old Persons Homes" to be set up in every district by the appropriate Government.

Facilities
to old
persons.

5. It shall be the responsibility of appropriate Government in their respective jurisdictions to provide to old persons—

(a) free medical aid in Government hospitals and other nearest dispensaries recognised by the Government; and

(b) residential accommodation free of cost.

Constitu-
tion of
Old
Persons
Welfare
Fund.

6. (1) There shall be constituted by the Central Government a Fund to be known as the "Old Persons Welfare Fund" to carry out the purposes of this Act.

(2) The Fund shall consist of the sums paid into it by the Central Government and grants and donations received from welfare agencies including international agencies.

Expenses
to be
met out
of the
Fund.

7. The expenses incurred on providing the old persons with pension and other rehabilitation facilities provided under this Act shall be met out of the Fund constituted under section 6.

Power
to make
rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

It is customary in our country for every Indian to look after his aged parents but now the economic conditions are such that it is not possible for the low income persons to support them. Today we find millions of old persons who are unable to take care of themselves or who do not have sufficient means or any support to lead a happy life. These people, who are without any source of income, live in hunger and are left uncared for. The majority of the aged are still left to fend for themselves. Our country being a welfare State, it should provide social security to such old and infirm persons.

This Bill seeks to give impetus to the new social order and seeks to provide pension, medical and residential facilities to old persons.

NEW DELHI;

BALASAHEB VIKHE PATIL.

April 12, 1990.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the payment of pension at the rate of rupees five hundred per month to such old persons who have attained the age of 60 years or more and who have no independent and adequate means of livelihood. Clause 4 provides that infirm persons from amongst the old persons shall be accommodated in old persons homes to be set up in every district. Clause 5 provides for medical aid and residential facilities free of cost to old persons. Clause 6 provides for the constitution of Old Persons Welfare Fund by the Central Government. This Bill, if enacted, would involve expenditure from the Consolidated Fund of India.

It cannot be estimated at this stage as to how many old persons will need assistance from the Central Government. However, an annual recurring expenditure of about rupees two hundred crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees ten lakhs will also be involved at the initial stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 96 OF 1990

A Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1990.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

20 of 1954. 2. For section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Substitutions of new section for section 3.

“3. A member shall be entitled to receive a salary at the rate of two thousand and five hundred rupees per mensem during the whole of his term of office and allowances at the rate of two hundred and twenty-five rupees for each day during any period of residence on duty.”.

Salaries and daily allowances.

**Amend-
ment of
section 5.**

3. In section 5 of the principal Act, in sub-section (2), in the proviso, for the word "sixteen", the word "thirty-two" shall be substituted.

**Amend-
ment of
section 6.**

4. In section 6 of the principal Act,—

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Every member on ceasing to be a member shall be provided with one free non-transferable air-conditioned two-tier pass, and one free pass for one person to accompany the member and travel by the same class, which shall entitle him to travel at any time by any railway in India:

Provided that the member and his companion shall not travel for more than seven thousand kms. by rail in a year using that pass.";

and

(ii) sub-section (4) shall be omitted.

**Insertion
of new
section
7A.**

5. After section 7 of the principal Act, the following section shall be inserted, namely:—

"7A. A member shall be entitled to an office expense allowance at the rate of rupees five thousand per mensem to meet the expenses in connection with his office and the staff appointed by him for that purpose."

**Amend-
ment of
section 8.**

6. In section 8 of the principal Act, the words "office expense allowance" shall be omitted.

**Amend-
ment of
section
8A.**

7. In section 8A of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Pension.

"(1) With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1990, there shall be paid a pension of rupees one thousand and five hundred per mensem to every person who has served as a member for one term of office.

Explanation.—For the removal of any doubt, pension shall be paid to such person who was elected as a Member in any bye-election or when the House of the People was dissolved before its term or for any other reason which was beyond the control of a person for completion of his term as a Member of the Council of States or the House of the People:

Provided that where any person has served for a period exceeding his first term of office, there shall be paid to him an additional pension of rupees one hundred and fifty per mensem for every completed year in excess of his first term of office:

Provided further that every person, who has served for any period as a member of the Provisional Parliament and who is not entitled to any pension under the foregoing provisions of this sub-

section, shall, with effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1990, be entitled to a pension of rupees one thousand and five hundred per mensem.

Explanation.—For the purposes of this sub-section “Provisional Parliament” shall include the body which functioned as the Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution.”.

8. In section 9 of the principal Act, in sub-section (3), after clause (g), the following clause shall be inserted, namely:—

“(h) free accommodation facilities.”.

Amend-
ment of
section 9.

STATEMENT OF OBJECTS AND REASONS

No doubt there may be some monetary benefits to members directly or indirectly but for their smooth functioning as a Member of Parliament, it is essential that they should be provided with some more facilities like provision of office expense allowance, increase in the entitlement of air journeys, increased pension and allowing even an ex-member to travel in rail free of cost.

Hence this Bill.

NEW DELHI;

BALASAHEB VIKHE PATIL.

April 12, 1990.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the payment of salary at the rate of two thousand and five hundred rupees per month and daily allowances at the rate of two hundred and twenty-five rupees for each day during any period of residence on duty to the members instead of salary at the rate of one thousand and five hundred rupees per month and daily allowances at the rate of one hundred and fifty for each day as at present. Clause 3 provides for entitling a member to thirty-two free single air journeys during a year instead of sixteen as at present. Clause 4 provides for entitling a member to a free railway pass for himself and his companion to travel by air-conditioned two-tier even after he ceases to be a member. Clause 5 provides for payment of office expense allowance at the rate of five thousand rupees per month. Clause 7 provides for payment of pension at the rate of rupees one thousand and five hundred per month instead of rupees five hundred per month as at present. Clause 8 provides for provision of free accommodation facilities.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to incur an annual recurring expenditure of about rupees one crore from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved

BILL No. 81 of 1990

A Bill to give members of the public the right to reply to allegations made against them or mis-reporting or mis-representation concerning them in the press.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and extent,

1. (1) This Act may be called the Right to Reply in the Press Act, 1990.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'medium newspaper' means a newspaper whose circulation according to the Registrar of newspapers for India is less than fifty thousand copies for each issue;

(b) 'newspaper' means any printed periodical work containing public news or comments whether published daily, weekly or monthly;

37 of 1978.

(c) 'Press Council of India' means the Press Council of India established under the Press Council Act, 1978; and

'(d) 'small newspaper' means a newspaper whose circulation according to the Registrar of newspapers for India is less than twenty five thousand copies for each issue.

3. Every person, including an organisation of persons or a company, firm or partnership, shall have the right to require the editor of a newspaper to print a reply to a factually inaccurate or distorted report involving that person when such report has been made in a newspaper for which that editor is responsible.

Right to reply in the press.

4. The replies demanded under section 3 shall be printed by the newspaper within three days of their receipt in the case of a daily newspaper and in the next issue in the case of other newspapers.

Publication of reply within the prescribed time.

5. The replies demanded under section 3 shall be printed free of cost by the concerned newspaper and shall be of equal length to the report replied to and shall be printed on the same page at the same position and in the same type as the report replied to.

Procedure for publication of reply.

6. Subject to the provisions of section 7, any editor, who fails to publish a reply within the prescribed time, shall be guilty of an offence punishable on conviction by a fine of not less than—

Punishment.

(a) rupees twenty five thousand in the case of small newspapers;

(b) rupees fifty thousand in the case of medium newspapers; and

(c) rupees one lakh in the case of other newspapers.

7. (1) The Press Council of India shall appoint a Panel of any three of its members under the chairmanship of the Chairman of the Press Council of India to which demand for replies be referred to if disputed by an editor.

Appointment of a Panel.

(2) The Panel shall determine, in each case of demand, within ten days of such reference, whether or not sufficient grounds exist for meeting a demand and shall inform those concerned accordingly.

(3) A finding by the Panel that there were no sufficient grounds for making a demand shall be a complete defence to any action under section 6.

STATEMENT OF OBJECTS AND REASONS

The Indian Press is by and large a responsible Press. However, there is a section of the Press which indulges in mis-reporting and mis-representation. A person's reputation or business can be ruined by a single false newspaper report. Taking a legal action against persons responsible for such reports is an expensive and time consuming process. It is, therefore, necessary to give a statutory right of reply to ensure that individuals can set the record straight. Similar laws are already on the Statute Books of some democratic countries such as France, West Germany, Canada, Denmark, etc.

This Bill seeks to achieve this object.

NEW DELHI;

V. N. GADGIL

April 17, 1990.

BILL No. 90 OF 1990

A Bill to provide for the constitution of a fund for the benefit of the farmers and agricultural workers.

Be it enacted by Parliament in the Forty-First Year of the Republic of India as follows:—

1. (1) This Act may be called the Farmers and Agricultural Workers Benefit Fund Act, 1990.

Short title and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definition.

(a) "accident" means accident arising out of or in the course of agricultural operation and includes snake bite or attack by an animal;

(b) "agricultural operation" means an agricultural or horticultural or sericultural work or rearing sheep, cattle, poultry or any other work ancillary thereto or connected therewith;

(c) "agricultural worker" means an agricultural worker who is landless and earns daily wages or wages on monthly or annual or on any other basis for giving assistance in agricultural operations;

(d) "Commissioner" means a Commissioner appointed under section 12 of this Act;

(e) "farmer" means a farmer who owns not more than five acres of wet land or seven acres of partially wet and dry land or ten acres of dry land;

(f) "fund" means the Farmers and Agricultural Workers Benefit Fund constituted under section 6 of the Act;

(g) "partial disablement" means where the disablement at the time of accident is of a temporary nature, such disablement which reduces the working capacity temporarily of a farmer or an agricultural worker, and where the disablement is of a permanent nature, such disablement which reduces permanently his working capacity which he was capable of having before the accident;

(h) "prescribed" means prescribed by the rules made under this Act; and

(i) "total disablement" means such disablement whether of temporary or permanent nature, which incapacitates a farmer or an agricultural worker for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that every such injury, that may be specified by the Central Government by notification published in the Official Gazette, shall be deemed to result in permanent total disablement.

**Compensation
to farmer
and
agricul-
tural
worker.**

3. If a personal injury is caused to a farmer or an agricultural worker by accident, compensation shall be paid to such farmer or worker out of the fund in accordance with the provisions of this Act:

Provided that no compensation shall be paid to a farmer or an agricultural worker—

(a) in respect of any injury which results in the total or partial disablement of the farmer or an agricultural worker for a period less than six days;

(b) in respect of any injury, not resulting in death caused by an accident which is directly attributable to a farmer or an agricultural worker under the influence of drinks or drugs at the time of accident.

**Fixa-
tion of
compen-
sation.**

4. Subject to the provisions of this Act, the amount of compensation payable to a person sustaining injury resulting in his total or partial disablement shall be such as may be specified by the Central Government from time to time by notification in the Official Gazette.

**Payment
of com-
pensation
in case of
death.**

5. In the case of death, the compensation shall be paid to the legal heir or the dependents of the deceased.

6. (1) The Central Government shall constitute a fund to be called the "Farmers and Agricultural Workers Benefit Fund".

(2) The initial amount of the fund, constituted under sub-section (1), shall be three hundred crores rupees, half of which shall be provided by the Central Government and one half of the balance shall be provided by State Governments in proportion to their agricultural population and the remaining by the nationalised banks and other banking institutions, working under the direction of or recognised as such by the Reserve Bank of India, in proportion to their lending capital and thereafter monies shall be provided by the Centre and the States in such proportion as may be agreed from year to year.

Fund to pay compensation.

(3) The fund shall vest in the Central Government and shall be managed in such manner as may be prescribed by rules made under this Act.

(4) The Central Government shall constitute such regional funds as it might consider necessary for the efficient administration of this Act.

7. No claim for compensation shall be entertained by a Commissioner unless the claim is preferred before him within three months of the occurrence of the accident:

Claim for compensation.

Provided that the want of anything or any defect or irregularity in the form of a claim shall not be a bar to the entertainment of a claim:

Provided further that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or, the claim has not been preferred in due time if he is satisfied that the failure so to give the notice or prefer the claim as the case may be was due to sufficient cause.

8. Every claim under this Act shall contain such information and shall be in such form, as may be prescribed by rules made under this Act.

Form of the claim inquiry.

9. On receipt of the claim, the Commissioner shall inquire into the matter and if he is satisfied that death or injury was caused to the person because of the accident, he shall decide the amount of compensation to be given under this Act and shall record reasons for coming to such a decision.

10. The proof of death of or injury to a farmer or an agricultural worker as a result of an accident shall be provided in such manner as may be prescribed by rules made under this Act.

Proof of death or injury.

11. No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

Bar of jurisdiction of civil courts.

12. (1) Every State Government and Union territory Administration may, by notification in the Official Gazette, appoint any person to be a Commissioner for settling the claims of farmers and agricultural workers under this Act for such area or areas as may be specified in the notification.

Appointment of Commissioner.

(2) The procedure to be followed by a Commissioner shall be prescribed by rules made under this Act.

Assis-
tance in
inquiry.

13. A Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons to assist him in accordance with the rules made under this Act.

Commis-
sioner
to be a
public
servant.

14. Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code.

45 of 1860.

Powers
and
proce-
dure of
Commis-
sioners.

15. The Commissioner shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath, which such Commissioner is hereby empowered to impose, and of enforcing the attendance of witnesses and compelling the production of documents and material objects and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973.

5 of 1908.

Appeal.

16. An appeal shall lie to the High Court provided the appeal is made within three months of the decision given by the Commissioner.

2 of 1974.

Power to
make
rules.

17. (1) The Central Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of sending claim to a Commissioner;
- (b) the manner of proof of death or injury for compensation under this Act;
- (c) the manner of paying compensation;
- (d) any other matter which may be required to be or prescribed by under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

While social security schemes have been extended to organised working classes, the farmers and agricultural workers, who constitute more than the two-thirds of the working force of the country, remain uncovered by such schemes. This class of our country's population is also the poorest. It is necessary in the national interest that farmers and agricultural labour are provided some insurance against accidents met during the course of agricultural operations or matters connected therewith.

Hence this Bill.

NEW DELHI;

April 17, 1990

TEJ NARAIN SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for payment of compensation to a farmer or an agricultural worker who suffers an injury in an accident during agricultural operations. Clause 6 provides for constitution of a fund with an initial capital of three hundred crore rupees. Half of this amount shall be provided by the Central Government and the remaining by the States, nationalised banks and other banking institutions. Clause 12 of the Bill provides for appointment of Commissioners. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India to the extent of about rupees one hundred and fifty crores initially and thereafter rupees ten crores annually in respect of Union territories.

A non-recurring expenditure of about rupees five crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Central Government is empowered by clause 17 of the Bill to make rules for carrying out the purposes of the Bill. The matters in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

BILL No. 86 OF 1990

A Bill to provide for the abolition of capital punishment in India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Abolition of Capital Punishment Act, 1990. Short title.

2. Capital punishment is hereby abolished. Abolition of capital punishment.

3. Notwithstanding anything contained in the Indian Penal Code or any other law, for the time being in force, maximum punishment for any offence shall not be more than imprisonment for life. Maximum punishment for any offence.

STATEMENT OF OBJECTS AND REASONS

Life is sacred and precious. So, one must imbibe reverence for life. Vengefulness is waste of life.

Human beings are born but once and they cannot be brushed aside and finished by any legal contrivance or a statutory dispensation. The State must not arrogate to itself a legal right to do away with the life of a human being. Crimes like thefts, murders, assaults, dacoities, etc. are undoubtedly grave offences against the society and human life. But they are interwoven with the social, economic, cultural, political and behavioural life-pattern of the community. Such ugly and objectionable deeds are directly the result of an insecure and indigent human society, bereft of conditions of equilitorium and equity. The wrong doer or the criminal is, therefore, to be treated as a mental case and should be dealt with cheritably and sympathetically without, of course, any misplaced leniency or unwarranted attitude. The emphasis has to be on reform and education rather than on rejection and retribution.

All forms of death sentence are agonising and cruel. Neither they cure the disease nor they solve the problem of crime. Human and universal experience shows that physical punishments scarcely ensure obedience to the different laws, rules and regulations designed for the good of community and welfare of society.

It must also be remembered that the human machinery set up for the purpose of awarding punishment to the guilty is bound to be full of in-built shortcomings. Persons inflicting punishments including death sentence are liable to err and the evidence on which a sentence is awarded could be misleading and can cause miscarriage of justice. A case of miscarriage of justice in the event of death sentence having been executed can never be rectified for life once ended cannot be brought back. Thus, to keep an offender alive as a prisoner would in any case be erring on the safe side. Capital punishment has been abolished in several countries of the world and the experience so far does not indicate any appreciable growth in crime or murder cases in these countries. Then, why should we in India lag behind in this matter, especially when capital punishment has never been encouraged by our centuries old traditions, morality and ethics. Death sentence can never be indispensable. What is important to note is that long terms of imprisonment are equally effective. And, what is more, life sentence leaves an opportunity both for reform, almost a re-birth of the criminal, and for a remedy for a possible miscarriage of justice.

Hence this Bill.

NEW DELHI;

April 17, 1990.

YAMUNA PRASAD SHASTRI.

BILL No. 83 of 1990

A Bill to prevent the imposition of social disabilities by a member or members of a community on a member or members of his or their own community; to provide for penalties for such an act or acts and for matters connected therewith.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Social Disabilities Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “community” means a group of members who are connected together by birth conversion or performance of religious rites or ceremonies or who belong to the same religion or religious creed and includes a caste or sub-caste;

(b) “member” means a person, whether male or female, who is a member of any community.

Short title and commencement.

Definitions.

Impos-
tion of
social
disabili-
ties.

3. Any member who commits any of the following act or acts shall be deemed to have imposed social disability on a member of his community if he—

- (a) denies, prevents or obstructs or causes to deny, prevent or obstruct any member of his own community from having access to or from using any place of worship or prayers or any place intended to be used for performing any religious ceremony or rite, prevalent or practised in his community;
- (b) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or from using any place used or intended to be used for a charitable, religious or public purpose and established, run, or maintained wholly or partly by his own community for and on behalf of the community and which is normally available for use to or by any member of his own community;
- (c) prevents or obstructs or causes to prevent or obstruct any member of his community from enjoying any benefit under a charitable trust or wakf created for the benefit of his community;
- (d) prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery burial ground or any other place used by or intended to be used by, or for the benefit of, his community.
- (e) prevents or obstructs or causes to prevent or obstruct any member of his community from observing any social or religious customs or usage or ceremony or from taking part in a social or religious functions, congregation, assembly, meeting or procession;
- (f) prevents or obstructs or causes to prevent or obstruct any member of his community from establishing or maintaining such social, professional, or business relations as he would ordinarily establish or maintain with other members of his community;
- (g) incites, provokes, or encourages any member of his community, directly or indirectly, to sever social, religious, professional or business relations with any other member or members of his community;
- (h) refuses or denies or causes to refuse or deny to any member of his community the right to perform such marriage, funeral or other religious ceremonies and rites as the members of his own community usually and ordinarily perform;
- (i) prevents or obstructs or causes to prevent or obstruct any member of his community from entering lodging in or otherwise using any *Dharamshala*, *Sarai* or *Musafarkhana* which is ordinarily open to members of his community; or
- (j) prevents or obstructs or causes to prevent or obstruct any member of his community from entering or using any place of worship, such as, temple, mosque, church, *gurudwara* or any cemetery, crematorium or burial ground which is ordinarily open to members of his community.

4. (1) Whoever imposes any social disability on any members of his community shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

Penal-ties.

(2) Whoever aids or abets in the commission of any offence punishable under this Act or connives at the commission of any such offence or harbours any offender or destroys any evidence shall on conviction be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

2 of 1974. 5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act—

Offences under this Act to be cognizable and compoundable.

- (a) shall be cognizable, and
- (b) may, with the permission of the Court, be compoundable.

6. (1) A police officer may—

(a) remove or cause to be removed any barricade or obstruction erected, placed or found in any place, if such police officer has reasonable ground to believe that the barricade or obstruction was so erected or placed in order to be used for the purpose of committing an offence under this Act; or

(b) open or cause to be opened any gate or door, if such police officer has reasonable ground to believe that such gate or door was closed for the purpose of committing an offence under this Act.

(2) Whenever a police officer has reasonable ground to believe that any person is likely to commit an offence under this Act, he may arrest such person without a warrant and deliver him into the custody of the officer-in-charge of a police station who may either release the person arrested on his executing a bond, with or without sureties, for his appearance in a Magistrate's Court or take or cause to be taken the person arrested before a Magistrate within twenty-four hours after the arrest.

Police Officers to take action in cases of imposition of social disabilities.

(3) When a person appears before a Magistrate in compliance with a bond executed by him under sub-section (2) or is brought before a Magistrate, he may require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period not exceeding three years as the Magistrate may think fit and if after due inquiry, the Magistrate is satisfied that such person should execute a bond, with or without sureties, the Magistrate shall make an order accordingly and the provisions of section 107 and sections 112 to 123 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply to or in relation to all orders to furnish security made under this sub-section.

STATEMENT OF OBJECTS AND REASONS

The outdated and unconstitutional practices such as untouchability, boycotts, etc., are still practised in various communities in the country, resulting in great harassment to individuals or groups. The harassment so caused, naturally gives rise to ill-feeling and disharmony towards each other. This has far-reaching effects on the social life of the community. It is, therefore, necessary to root out these evils by putting a stop to the imposition of the various social disabilities. The objective can be achieved by enacting a suitable legislation for the purpose and also for providing punishment to those who indulge in such evil practices.

Hence this Bill.

NEW DELHI;

April 12, 1990.

KASHIRAM RANA

BILL No. 88 OF 1990

A Bill to provide for the constitution of a welfare fund for payment of retirement benefits to advocates and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the constitution of a welfare fund for the payment of retirement and other benefits to advocates and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Advocates' Welfare Fund Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires.—

(a) 'advocate' means a person whose name continues in the State roll of advocates prepared and maintained by any State Bar

Short title,
extent
and com-
mence-
ment.

Defini-
tions.

Council under section 17 of the Advocates Act, 1961 and who is also a member of a Bar Association, or a Society of Advocates registered under the Societies Registration Act, 1860;

25 of 1961.

(b) 'Bar Association' means an association of advocates which is recognised by the Bar Council of India under section 13;

(c) 'Bar Councils' means the State Bar Councils constituted under section 3 of the Advocates Act, 1961;

21 of 1960.

(d) 'cessation of practice' means removal of the name of an advocate from the State rolls maintained by a State Bar Council on account of his death or retirement, or on account of his voluntary cessation on the ground of permanent physical or mental disability;

23 of 1961.

(e) 'Committee' means the Central Committee established under section 4;

(f) 'Fund' means the Advocates' Welfare Fund constituted under section 3;

(g) 'member of the Fund' means an advocate admitted to the benefit of the Fund and continuing to be a member thereof under the provisions of this Act;

(h) 'prescribed' means prescribed by rules made under this Act;

(i) 'retirement' means stoppage of practice as an advocate, communicated to and recognised by the Committee;

(j) 'society' means an association of advocates, registered under the Societies Registration Act, 1860, other than the Bar Association and recognised by the Bar Council of India;

(k) 'stamp' means the Advocates' Welfare Fund stamp printed and distributed under section 22;

(l) 'suspension of practice' means voluntary suspension of practice as an advocate or suspension by a Bar Council for misconduct; and

(m) 'vakalatnama' means memorandum of appearance or any other document by which an advocate is empowered to appear or plead before any court, tribunal or other authority.

Constitution
of an
Advocates'
Welfare
Fund.

3. (1) With effect from the date of establishment of the Committee under sub-section (3) of section 4, there shall be constituted a Fund to be called the Advocates' Welfare Fund.

(2) There shall be credited to this Fund—

(a) all amounts that may be paid by the State Bar Councils under section 12;

(b) any voluntary donation or contribution made to the Fund by the Bar Council of India, any Bar Association, any other association, or any institution, any advocate, or any other person;

(c) any sum borrowed under section 10;

(d) any interest or dividend or other return on any investment made out of any part of the Fund;

(e) all sums collected by way of sale of stamps under section 22; and

(f) all sums collected under Section 15 by way of application fees and annual subscription and interest thereof.

(3) The sums specified in sub-section (2) shall be paid to or collected by the Committee and the accounts of the fund shall be maintained and operated in such manner as may be prescribed.

4. (1) There shall be constituted by the Central Government a Central Committee consisting of the following members nominated by the Central Government:—

(i) Attorney-General of India—*ex-officio* member and Chairman;

(ii) Secretary, Ministry of Law and Justice, Government of India—*ex-officio* member;

(iii) Chairman, State Bar Councils—*ex-officio* members;

(iv) Ten eminent advocates to be nominated by the Chief Justice of Supreme Court;

(v) Treasurer, Bar Council of India—*ex-officio* member and treasurer;

(2) The Chairman, Bar Council of India shall be the *ex-officio* Secretary to the Committee.

(3) The Committee shall be a body corporate with a common seal and perpetual succession with its Head Office at New Delhi having power to acquire and hold property and shall, by the said name, sue or be sued.

(4) The nominated members shall hold office for a period of four years.

(5) The Bar Councils shall establish Committees, having twenty members, with Chairmen of Bar Councils as their heads, to help the Central Committee in its functioning.

5. (1) A person shall be disqualified for being nominated or appointed as and for being a member of the Committee, if he—

(a) becomes of unsound mind, or

(b) is adjudged an insolvent, or

(c) is absent without leave of the Committee for more than three consecutive meetings of the Committee, or

(d) is a defaulter to the Fund (in case he is a member of the Fund) or has committed breach of trust, or

(e) is convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside, or

(f) is removed from the roll of a State Bar Council for whatsoever reason.

Establishment of Central Committee.

Disqualification of nominated members of the Committee.

(2) On a member being disqualified as per sub-section (1), a vacancy arises from the date on which the Committee declares him to be so disqualified.

Vacancy due to resignation.

6. (1) Any member, nominated under sub-section (1) of section 4, may resign from his office, by giving notice in writing to the Chairman of the Committee, and or, acceptance of his resignation he shall be deemed to have vacated his office.

(2) Any casual vacancy in the office of a member may be filled up, as soon as may be, by the Central Government and a member so nominated to fill such vacancy shall hold office for the unexpired portion of the term of office of the member whose place he fills.

(3) Whenever a casual or temporary vacancy occurs in the office of the Chairman of the Committee, whoever is incharge of the office of the Solicitor-General of India for the time being, shall function as the Chairman of the Committee.

7. No act done or proceeding taken under this Act or the rules made thereunder by the Committee shall be invalidated merely by reason of—

(a) any vacancy or defect in the constitution of the Committee; or

(b) any defect or irregularity in the nomination of any person as a member thereof; or

(c) any defect or irregularity in such act or proceeding not affecting the merits of the case.

8. The Fund shall vest in, and be held and applied by, the Committee subject to the provisions and for the purposes of the Act.

Act of Committee not to be invalidated by any vacancy, defect, etc.

9. (1) The Committee shall administer the Fund.

(2) In the administration of the Fund, the Committee shall, subject to the provisions of this Act and the rules made thereunder,—

(a) hold the amounts and assets belonging to the Fund in trust;

(b) receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof;

(c) receive applications from the members of the Fund, their nominees or legal representatives, as the case may be, for payments out of the Fund, conduct such enquiry as it may deem necessary for the disposal of such applications and dispose of the applications within three months from the date of receipt thereof;

(d) record in the minutes book of the Committee the decisions on the applications;

(e) pay to the applicants amount at the rates specified in the Schedule;

Vesting and application of fund.

Functions of the Committee.

(f) send such periodical and annual reports to the Central Government and the Bar Council of India in the prescribed manner;

(g) communicate to the applicants by registered post with acknowledgement due, the decision of the Committee in respect of applications for admission or re-admission to the Fund or claims to the benefit of the Fund; and

(h) do such other acts as are, or may be, required to be done under this Act and the rules made thereunder.

10. (1) The Committee may, with the prior approval of the Central Government, borrow, from time to time, any sum required for carrying out the purposes of this Act.

Borrowing and investment.

(2) The Committee shall deposit all moneys and receipts forming part of the Fund in any Scheduled bank or invest the same in loans in any Corporation owned or controlled by the Central Government or the State Governments or in loans floated by the Central Government or the State Governments.

(3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Funds shall be paid out of the Fund.

(4) The accounts of the Committee shall be audited annually by a Chartered Accountant appointed by the Central Government.

(5) The accounts of the Committee, as certified by the auditor, together with the audit report thereon, shall be forwarded to the Central Government by the Committee, and the Central Government may issue such directions as it may deem fit to the Committee in respect thereof.

(6) The Committee shall comply with the directions issued by the Central Government under sub-section (5).

Explanation.—For the purposes of this Act, the Ministry of Law and Justice, Government of India, shall be the Administrative Department.

11. The Secretary of the Committee shall—

Powers and duties of Secretary.

(a) be the chief executive authority of the Committee responsible for carrying out its decisions;

(b) represent the Committee in all suits and proceedings for and against the Committee;

(c) authenticate by his signature all decisions and instructions of the Committee;

(d) operate the bank accounts of the Committee jointly with the Treasurer;

(e) convene meetings of the Committee and prepare its minutes;

(f) attend the meetings of the Committee with all the necessary record and information;

(g) maintain such forms, registers and other records as may be prescribed from time to time and do all correspondence relating to the Committee;

(h) prepare and annual statement of business transacted by the Committee during each financial year; and

(i) do such other acts as may be directed by the Committee.

**Contri-
butio
n by
the Bar-
Councils.**

12. The Bar Councils shall contribute to the Fund annually an amount equal to twenty per centum of the enrolment fees realised by them every year.

**Recog-
nition and
registra-
tion of
Bar Asso-
ciations.**

13. (1) All associations of advocates known by any name functioning in any Court may, before a date to be notified by the Bar Council of India in this behalf, apply to the State Bar Council where it is situated in such form as may be prescribed for recognition and registration.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to societies.

(3) Every application for recognition and registration of an association shall be accompanied by their rules or bye-laws, names and addresses of the office bearers with an up-to-date list of the members showing the names, address, age, date of enrolment and the ordinary place of practice of each member.

(4) The Bar Councils shall examine the applications and shall forward them to the Bar Council of India with their recommendations for granting recognition to an association or not.

(5) The Bar Council of India may, after such enquiry, as it may deem necessary recognise an association and issue a certificate of registration in such form as may be prescribed.

(6) The decision of the Bar Council of India regarding the recognition and registration of an association shall be final.

**Duties
of Bar
Associa-
tion.**

14. (1) Every Bar Association shall, on or before the fifteenth April every year, furnish to the Bar Council of India a list of its members as on the thirty-first March of that year.

(2) Every Bar Association shall, intimate to the Bar Council of India,—

(a) any change of the office bearers of the association within fifteen days from such change;

(b) any change in the membership including admission and re-admission within thirty days of such change;

(c) the death, retirement or voluntary suspension of practice of any of its members within thirty days from the date of occurrence thereof; and

(d) such other matters as may be required by the Bar Council of India from time to time.

(3) The provision of sub-section (2) shall apply *mutatis mutandis* to the Societies.

15. (1) Every advocate practising in any Court, and being a member of a Bar Association, or a Society, may apply to the Committee for admission as a member of the Fund in such form as may be prescribed.

(2) On receipt of an application under sub-section (1), the Committee shall make such enquiry as it may deem fit and either admit the applicant to the fund or for reasons to be recorded in writing, reject the application:

Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard.

(3) Every applicant shall pay an application fee of one hundred rupees payable alongwith the application to the account of the committee:

Provided that advocates having less than five years standing practice of the Bar will pay only rupees fifty.

(4) In the event of rejection of an application, the fee paid alongwith the application shall be refunded to the applicant.

(5) Every member shall pay an annual subscription, to the Fund of or before the thirtieth June of every year, at the following rates, namely:—

(a) where the standing of the advocate at the Bar is five years—nil;

(b) where the standing of the advocate at the Bar is more than five years but less than fifteen years—fifty rupees;

(c) where the standing of the advocate at the Bar is fifteen years or more—one hundred rupees.

(6) A member may pay the subscription under sub-section (5) in two equal instalments at his option.

(7) Any member, who fails to remit the annual subscription for any year before the thirtieth June of the year, shall be liable to be removed from the membership of the Fund.

(8) Any person removed from the membership of the Fund under sub-section (7), shall be readmitted to the Fund on payment of the arrears, with interest at twelve per cent per annum, within six months from the date of removal subject to payment of twenty-five per centum of the annual subscription as renewal fee.

(9) Every member shall, at the time of admission to the membership of the Fund, make a nomination conferring on one or more persons the right to receive the amount which may be due to him from the Fund, in the event of his death, before the amount had been paid to him.

(10) If a member nominates more than one person under sub-section (9), he shall specify, in the nomination, the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may be due to him.

(11) A member may at any time cancel a nomination by sending a notice in writing to the Committee, provided that he shall, along with such notice, send a fresh nomination and no cancellation shall be effective unless fresh nominations are made by the member cancelling the earlier nomination.

(12) A member who received any other pensionary benefits or has suspended his practice voluntarily or otherwise before attaining his sixtieth year not being permanently disabled, shall not be permitted to the benefit under the Act; however, at the discretion of the Committee, he may be paid the total annual membership subscription paid by him.

(13) Subject to the provisions of sub-section (12), the annual subscription shall be non-refundable.

(14) A member of the Fund shall have the obligation of appearing and conducting such cases which may be entrusted to him by the respective State Legal Aid and Advisory Committees and similar Committees functioning in different districts and sub-divisions of the State unless there are reasonable excuses for his non-appearance.

Payment from the fund on cessation of practice.

16. (1) A member of the Fund shall, on cessation of practice, be entitled to receive, from and out of the fund, an amount at the rates specified in the Schedule subject to other provisions of this Act.

(2) In the event of the death of a member, the amount shall be paid to his nominee(s) or, where there is no nominee, to his legal heirs.

(3) A member of the Fund may opt retirement benefits at any time after five years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such conditions, as may be prescribed:

Provided that a member suffering from permanent disability shall be allowed to retire within five years of his admission to the Fund.

(4) For calculating the period of completed years of practice for the purpose of payment under this Act, every four years of practice at the Bar, if any, before the admission of a member to the fund, shall be computed as one year of practice after such admission.

(5) An application for payment from the Fund shall be preferred to the Committee in such form as may be prescribed.

(6) An application received under sub-section (5) shall be disposed of by the Committee after such enquiry as it may deem necessary.

Restriction on alienation, attachment etc. of interest in the Fund.

17. (1) The interest of any member in the Fund or the right of a member or his nominee or his legal heirs to receive any amount from the Fund, shall not be assigned, alienated, or charged and shall not be liable to attachment under any decree or order of any Court, tribunal or other authority.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or his legal heirs.

*Explanation.—*For the purposes of this section, creditor includes the State, or an official assignee or receiver appointed under any law for the time being in force.

18. (1) A member of the Fund may suspend his membership for any reason whatsoever and on his suspension, he shall cease to be a member of the Fund and become disentitled to the benefits under this Act.

Cessation
and re-
admis-
tion.

(2) On his resumption of practice, he may apply for re-admission on making the following payments to entitle him to the benefits under this Act—

(a) fifty per cent. of the admission fee, and

(b) an amount equal to the total annual subscription that he would have paid, had he not discontinued his membership.

19. (1) The Committee shall meet at least once in three calendar months or more often, if found necessary, to transact business under this Act or the rules made thereunder.

Meetings
of the
Com-
mittee.

(2) Ten members of the Committee shall form the quorum for any meeting of the Committee.

(3) The Chairman or, in his absence, a member, elected by the members present, shall preside over a meeting of the Committee.

(4) Any matter coming up before a meeting of the Committee shall be decided by a majority of the members present and voting at the meeting and, in the case of an equality of votes, the Chairman or the member presiding over the meeting shall have a casting vote.

20. The non-official members of the Committee shall be eligible to get, out of the Fund, such travelling allowances and daily allowances as are admissible to the members of a State Bar Council.

Travel-
ling and
daily
allow-
ance to
members
of Com-
mittee.

21. (1) An appeal against any decision of the Committee shall lie to the Central Government.

Appeal
against
decision
of Com-
mittee.

(2) The appeal shall be in the prescribed form and shall accompanied by—

(a) a copy of the order appealed against, and

(b) a receipt evidencing payment of one hundred rupees to the credit of the Fund in any of the branches of the State Bank of India.

(3) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

(4) The decision of the Central Government on appeal shall be final.

22. (1) The Central Government and State Governments, on behalf of the Committee, shall cause to be printed and distributed the stamps of the value of two rupees and its value inscribed thereon in their respective jurisdictions.

Printing
and dis-
tribution
of
stamps
by the
Central
Govern-
ment and
State
Govern-
ments.

(2) The stamps shall be of the size 1"X2".

(3) The custody of the stamps shall be with the Central Government or the State Governments who shall maintain a separate account and head for this.

(4) The Central Government or the State Governments shall control the distribution and sale of the stamps through the stamp vendors appointed by them for the sale of court fee stamps.

(5) The Central Government and the State Governments at the time of closing of every financial year shall transfer the sale proceeds of the stamps after the payment of commission and deduction of all expenditure incurred by them on the printing, distribution, etc. of stamps to the Fund.

(6) The Central Government and the State Governments shall also furnish to the Committee a statement containing the number of stamps printed, sold and amount so transferred to the Fund after deducting commission and expenses incurred by them within three months from such transfer.

Vakalat-nama to bear stamp.

23. (1) Every member of the Fund shall affix a stamp on every vakalatnama or memorandum of appearance filed by him and no vakalatnama or memorandum shall be filed before, or received by, any court, tribunal or other authority unless it is so stamped.

(2) Every stamp affixed on vakalatnames filed before any court, tribunal or other authority shall be cancelled in the manner provided for court fee stamps.

(3) The value of the stamp shall neither be costs in the suit or case nor be collected in any event from the client.

(4) Any contravention of the provisions of sub-section (3), by a member shall disentitle him to the benefits of the Fund and the Committee shall report such instances to the Bar Council of India for appropriate action.

(5) No court, tribunal or authority shall accept any Vakalatnama or memorandum of appearance filed unless the stamp is affixed to it except when filed by an advocate appearing—

- (a) for an indigent person, or
- (b) for any person receiving legal aid, or
- (c) as *amicus curiae*.

Protection of action taken in good faith.

24. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

(2) No suit, or other legal proceeding shall lie against the Committee for any damage caused or likely to be caused by any thing which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

Bar of jurisdiction of Civil Courts.

25. No Civil court, shall have jurisdiction to settle, decide or deal with any question or determine any matter which is required to be settled, decided or dealt with or to be determined by the Committee or any other authority under this Act.

5 of 1908.

26. The Committee shall for the purpose of any enquiry under this Act have the same powers as are vested in a Civil Court while trying a suit under Code of Civil Procedure, 1908 in respect of the following matters, namely:—

- (a) enforcing the attendance of any person or examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit; and
- (d) issuing commissions for the examination of witnesses.

27. The Central Government may, in consultation with the Committee, make rules for the purpose of carrying into effect the provisions of this Act.

Power to summon witnesses and take evidence.

Power to make rules.

THE SCHEDULE

(See section 16)

	Rs.
30 years' standing	50,000
29 years' standing	49,000
28 years' standing	48,000
27 years' standing	47,000
26 years' standing	46,000
25 years' standing	45,000
24 years' standing	44,000
23 years' standing	43,000
22 years' standing	42,000
21 years' standing	41,000
20 years' standing	40,000
19 years' standing	39,000
18 years' standing	38,000
17 years' standing	37,000
16 years' standing	36,000
15 years' standing	35,000
14 years' standing	34,000
13 years' standing	33,000
12 years' standing	32,000
11 years' standing	31,000
10 years' standing	30,000
9 years' standing	19,000
8 years' standing	15,000
7 years' standing	10,000
6 years' standing	6,000
5 years' standing	5,000
Less than 5 years standing	25,000
	(only on death)

STATEMENT OF OBJECTS AND REASONS

The role of the advocates right from the day of the Freedom movement upto the present day has been very significant and essential. They are cream of the society, group of intellectuals meant to fight upholding the rule of law and the Constitution. They are to defend the State as well as citizens against any injustice and to assist the courts to give justice in upholding the law of the land and the Constitution. When they become physically incapable of carrying on their profession any further, they require assistance for security and safety for the rest of their life.

It is, therefore, felt necessary to provide through an Act some retirement benefits for welfare of the Advocates.

The Bill seeks to achieve the above objects.

NEW DELHI;

April 12, 1990.

KASHIRAM RANA.

FINANCIAL MEMORANDUM

Clause 22 of the Bill provides for the printing and distribution of stamps, on behalf of the Committee, by the Central Government and the State Governments, which shall be affixed to every vakalatnama or memorandum of appearance filed by an advocate for appearance before any court or tribunal. The cost of printing, distribution, etc. of stamps as regards the States shall be borne by the respective State Governments but, however, the Central Government shall have to bear the cost in respect of Union territories. However, the Central Government and the State Governments shall deduct all expenditure incurred by them on printing, distribution, etc. of stamps before handing over the amount collected by way of selling these stamps to the Central Committee. Therefore, the net result will be that there will be no recurring or non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill provides that the Central Government may, in consultation with the Committee, make rules for carrying out the purposes of the Bill. The matters in regard to which the rules may be made are of detail only. Therefore, the delegation of legislative power is of a normal character.

BILL No. 84 of 1990

A Bill further to amend the Indian Penal Code.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Act, 1990. Short title.

45 of 1860.

2. In section 376 of the Indian Penal Code, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment
of section
376.

“(3) Notwithstanding anything contained in sub-section (2), whoever commits rape on a woman when she is under ten years of age shall be punished with death.”

STATEMENT OF OBJECTS AND REASONS

In the recent past there has been a increase in cases of rape of minor girls. The act of rape itself is the worst kind of a criminal offence and it gains in gravity once it is committed on minor girls. In some of the cases the age of the minor girls was as much less as nine months. Persons who commit such type of offences deserve no leniency at the hands of law but on the other hand deserve maximum of the capital punishment i.e. they should be awarded death penalty for such beastly acts.

The Bill seeks to achieve this purpose.

NEW DELHI:

April 19, 1990.

KASHIRAM RANA.

BILL No. 87 of 1990

A Bill to provide for payment of monthly pension and provision of other facilities to the members of the families of persons killed in terrorist violence in the country.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Rehabilitation of Victims of Terrorism Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. For the purposes of this Act, the term 'terrorist act' shall have the same meaning as is assigned to it in sub-section (1) of section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987.

3. The Central Government shall, in addition to any other amount being payable, including any ex-gratia payment, pay pension at the rate of rupees two thousand per mensem to the family of a person killed in any act of terrorism.

Short title and Commencement.
Definition.

Pay-
ment of
pension
to famili-
es of
victims
of terro-
rism.

Provision of other facilities.

4. If any person killed in a terrorist act was the sole earning member of a family, the Central Government shall provide employment to at least one eligible member of the family of the victim within three months of the happening of the Act;

Provided that if there is no one eligible for immediate employment, the Central Government shall provide, free of cost, such education, technical or otherwise, to a member of the family of the victims before providing him with gainful employment.

Power to make rules.

5. (1) The Central Government may make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Terrorist violence has claimed lives of a large number of innocent citizens of this country. The tragedy of the situation is heightened by the fact that the dependents of these unfortunate victims of violence are often left with no means of support. The trauma caused by the death of the bread-winner and the sudden deprivation of means of livelihood ruin their lives. Many families have been ruined and many more are likely to be ruined as a result of terrorist violence. The State should provide the dependents with a stable income and certain essential facilities.

The Bill seeks to provide for payment of pension to the family of a person killed as a result of terrorist act and also to ensure the provision of job to atleast one member in the family of the deceased if the deceased was the sole earning member of his family.

NEW DELHI;

April 19, 1990.

K. V. THOMAS

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for a monthly pension of rupees two thousand to the family of the person killed as a result of terrorist act. Clause 4 provides for the provision of a job to one eligible member of the family of a person, killed as a result of terrorist act, by the Central Government, if the person killed is the only earning member of his family and if no member of the family is eligible for the job offered, the Central Government shall provide free of cost, such education, technical or otherwise, to one member of that family so that the member may become eligible to join the job so offered. The Bill, therefore, if enacted, is likely to involve an annual recurring expenditure of about rupees two crores from the Consolidated Fund of India.

No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a **normal character**.

BILL No. 82 OF 1990*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. In article 48 of the Constitution, for the words "and prohibiting the slaughter, of cows and calves", the words "and prohibiting the slaughter, of cow and its progeny" shall be substituted.

Amendment of article 48.

3. In the Seventh Schedule to the Constitution,—

(i) In List II—State List, for entry 15, the following entry shall be substituted, namely:—

"15. Preservation, protection and improvement of stock and prevention of animal diseases subject to the provisions of entry 17 of List III; veterinary training and practice"; and

(ii) In List III—Concurrent List, for entry 17, the following entry shall be substituted, namely:—

"17. Prohibition of slaughter of cow and its progeny; prevention of cruelty to animals including sacrifice of animals for religious purposes".

Amendment of Seventh Schedule.

STATEMENT OF OBJECTS AND REASONS

Although article 48 of the Constitution provides for prohibition of slaughter of cows and calves and other milch and draught cattle, the States of West Bengal and Kerala have not yet introduced prohibition of cow slaughter. Moreover, article 48 provides for prohibition of cow slaughter and not for the progeny of cow.

In the absence of an entry providing for prohibition of slaughter of cow and its progeny in List III—Concurrent List of the Seventh Schedule to the Constitution, the Parliament cannot enact a law for the prohibition of cow slaughter. The Supreme Court in the past has taken the view that though a ban on cow slaughter is constitutional yet slaughter of other animals like bullock, buffalo, etc. can be allowed if such animals are not economically viable.

The people of India, both for economic and religious reasons, have always demanded complete ban on slaughter of cow and its progeny and other milch animals but it has not been accepted so far.

Hence this Bill.

NEW DELHI;
April 11, 1990.

GUMAN MAL LODHA

BILL No. 75 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|---|--|
| 1. This Act may be called the Constitution (Amendment) Act, 1990.

2. In the Eighth Schedule to the Constitution, entries 11 to 15 shall be re-numbered as entries 12 to 16 respectively, and before entry 12 as so re-numbered, the entry "11. Rajasthani." shall be inserted. | Short title.

Amend-
ment of
Eighth
Schedule. |
|---|--|

STATEMENT OF OBJECTS AND REASONS

Rajasthani language is the language of about three crores of Rajasthanis and yet it has not found a place so far in the Eighth Schedule to the Constitution. There is plenty of rich literature in Rajasthani language. It is spoken by almost all Rajasthanis in and outside the State of Rajasthan.

In view of this, it has become necessary that the Eighth Schedule to the Constitution is suitably amended to include Rajasthani language in it so as to give recognition to the language spoken by more than three crores of people.

The Bill seeks to achieve the above objective.

NEW DELHI;

April 11, 1990.

GUMAN MAL LODHA

BILL No. 78 OF 1990

A Bill to provide for the establishment of a permanent Bench of the High Court at Bombay at Kolhapur.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the High Court at Bombay (Establishment of a Permanent Bench at Kolhapur) Act, 1990.

Short title.

2. There shall be established a permanent Bench of the High Court at Bombay at Kolhapur and such Judges of the High Court at Bombay, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Kolhapur in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Kolhapur, Sangli, Satara, Ratnagiri and Sindhudurg.

Establishment of a permanent Bench of High Court at Bombay at Kolhapur.

STATEMENT OF OBJECTS AND REASONS

Maharashtra is one of the thickly populated States of the Indian Republic. There is a need for locating a Bench of the High Court at Bombay in the western part of the State in the interest of administration of speedy and cheap justice and convenience of the litigant public. The Bill provides for the establishment of such a Bench at Kolhapur.

NEW DELHI;

NANASAHEB UDAYISINGRAO GAIKWAD.

April 25, 1990.

BILL No. 76 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|---|--------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1990. | Short title. |
| 2. Article 370 of the Constitution shall be omitted. | Omission of article 370. |

STATEMENT OF OBJECTS AND REASONS

Article 370 has no meaning in the present situation. The State of Jammu and Kashmir has become part and parcel of India. Number of elections were held during the last 42 years which have proved that Jammu and Kashmir is as good a State of India as other States are. The State has lost many opportunities due to this article as no big industrialists are interested in setting up industries in the State under the present situation. The State has thus remained industrially backward. People of the State are suffering from such step-motherly treatment. This article gives Pakistan an opportunity to raise the Kashmir question on various international forums. The people of the State are interested in removing this article immediately so that they can feel proud of being part and parcel of India.

Hence, this is the right time to omit this article so that the people of the State enjoy the fruits of progress of the country as are being enjoyed by the people of other States.

Hence this Bill.

NEW DELHI;
April 25, 1990.

KASHIRAM RANA.

BILL NO. 110 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|---|---|
| 1. This Act may be called the Constitution (Amendment) Act, 1990. | Short title. |
| 2. For Eighth Schedule to the Constitution, the following Schedule shall be substituted, namely:— | Substitution of new Schedule for Eighth Schedule, |

"EIGHTH SCHEDULE

[Articles 344(1) and 351]

Languages

1. Assamese.
2. Bengali.
3. Bhojpuri.
4. Dogri.

-
- 5. Gujarati.
 - 6. Hindi.
 - 7. Kannada.
 - 8. Kashmiri.
 - 9. Konkani.
 - 10. Malayalam.
 - 11. Marathi.
 - 12. Nepali.
 - 13. Oriya.
 - 14. Punjabi.
 - 15. Sanskrit.
 - 16. Sindhi.
 - 17. Tamil.
 - 18. Telugu.
 - 19. Urdu.”.

STATEMENT OF OBJECTS AND REASONS

In our country, with a population of over 800 millions a large number of languages are spoken. But only 15 languages have been included in the Eighth Schedule to the Constitution. People of different regions have different aspirations. They are very much within the right to love their language, religion and culture. Bhojpuri, Dogri, Konkani and Nepali languages have their own script, literature and culture. These languages are used by a large number of people. The respective State Governments have also recognised these languages in the States.

It is, therefore, in the fitness of the things that Bhojpuri, Dogri, Konkani and Nepali languages should be added to the Eighth Schedule to the Constitution so as to give them recognition which would be in the interest of national integrity and unity.

Hence this Bill.

NEW DELHI;

April 26, 1990.

SATYAGOPAL MISRA

BILL No. 112 OF 1990

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and comment.
cement.

1. (1) This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
the
Sche-
dule.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part I.—Andhra Pradesh, after entry 23, the following entry shall be inserted, namely:—

“23A. Palli-Agnikula Kashtriya”.

C.O.22

STATEMENT OF OBJECTS AND REASONS

The Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 list certain castes and tribes for providing them with certain benefits like reservation of seats in educational institutions, services, etc. The basis for inclusion of these castes and tribes in the Schedule to the Orders was their socio-economic backwardness.

A large number of socially and economically backward castes and tribes have, however, not been included in the Schedules to the Orders. One such tribe is fishermen community "Palli-Agnikula Kshatriya" of Andhra Pradesh. This socially and economically backward community of fishermen has very low status in the social hierarchy of Hindu castes in Andhra Pradesh.

The fishermen community in Andhra Pradesh has been representing for a long time for inclusion in the list of Scheduled Tribes. Despite the recommendations of the State Government of Andhra Pradesh, the Joint Parliamentary Committee on the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1967 and the Mandal Commission for backward classes for inclusion of 'Palli-Agnikula Kshatriya' community in the Schedule to the Constitution (Scheduled Tribes) Order, 1950, this community of Andhra Pradesh has not yet been included in the list of Scheduled Tribes.

This Bill seeks to achieve the above purpose.

NEW DELHI;

K. S. RAO

May 10, 1990.

BILL No. 111 OF 1990

A Bill to provide for prohibition on conversion from one religion to another by the use of force or inducement or by fraudulent means and for matters incidental thereto.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Freedom of Religion Act, 1990.

2. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'conversion' means renouncing one religion and adopting another;

(b) 'force' shall include a show of force or a threat of injury of any kind including Threat of divine displeasure or social excommunication;

(c) 'fraud' shall include misrepresentation or any other fraudulent contrivance;

(d) 'inducement' shall include the offer of any gift or gratification either in cash or in kind and shall also include the grant of any benefit, either pecuniary or otherwise;

(e) 'minor' means a persons under eighteen years of age.

3. No person shall convert or attempt to convert or abet in converting, either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by deceit or by any fraudulent means.

Prohibition on conversion by force, inducement, etc.

4. Any person contravening the provisions contained in section 3 shall, without prejudice to any civil liability, be punishable with rigorous imprisonment which may extend to five years or with a fine upto five thousand rupees or with both:

Punishment.

Provided that in case the offence is committed in respect of a minor, woman or a person belonging to the Scheduled Caste or Scheduled Tribe, the punishment shall be imprisonment to the extent of two years and a fine upto five thousand rupees.

5. An offence under this Act shall be cognisable and shall not be investigated by an officer below the rank of an Inspector of Police.

Offence to be cognisable.

6. No prosecution for an offence under this Act shall be made without the sanction of the District Magistrate or such other authority, not below the rank of a Sub-Divisional Officer, as may be authorised by him in this behalf.

Prosecution with the sanction of District Magistrate.

20 of 1958.

The provisions of the Probation of Offenders Act, 1958 shall not apply to the punishment of offences committed under this Act.

Prohibition of Offenders Act not to apply.

8. The Central Government may make rules for the purpose of carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

One of the fundamental rights enshrined in the Constitution is the right to profess, practise and propagate religion of one's choice.

Conversion from one religion to another by consent cannot be questioned, but State protection is required where it is sought to be attained by threat, undue influence, allurement or wrongful inducement. The importance of providing this protection to persons belonging to the Scheduled Castes and Scheduled Tribes is all the more necessary and cannot be ignored. The policy of the State should be directed to achieve this aim.

Hence this Bill.

NEW DELHI;

YADVENDRA DATT

May 24, 1990.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for the purpose of carrying out the provisions of the Act. Since the rules to be framed will relate to matters of detail only, the delegation of Legislative power is of a normal character.

BILL No. 118 OF 1990

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|--|
| 1. This Act may be called the Constitution (Amendment) Act, 1990. | Short title. |
| 2. In article 29 of the Constitution, clause (2) shall be omitted. | Amend-
ment of
article 29. |
| 3. After article 29 of the Constitution, the following article shall be inserted, namely:— | Insertion
of new
article
29A. |
| <p>"29A. (1) Every citizen until he completes the age of fourteen years shall have the right to free and compulsory education.</p> <p>(2) No citizen shall be subject to any disability, restriction or condition with regard to admission to any educational institution</p> | |

Right to
free and
com-
pulsory
educa-
tion.

maintained by the State or receiving aid out of the State funds or dedicated to the use of the general public.”.

Eradica-
tion of
illiteracy.

4. For article 45 of the Constitution, the following article shall be substituted, namely:—

Substitu-
tion of
new arti-
cle for
article 45.

“45. The State shall, within a period of ten years from the commencement of the Constitution (Amendment) Act, 1990, take steps for eradication of illiteracy in the country.”.

STATEMENT OF OBJECTS AND REASONS

The solemn desire of the people after emancipation from the yoke of the colonial rule for constituting India into a "Sovereign Socialist Secular Democratic Republic" presupposes the fulfilment of the minimum basic needs of human lives. Education is one such fundamental ingredient of the civilized man. The 1981 census brings to our notice candidly the fact that sixty four per cent of our population are illiterate even though the founding fathers of the Constitution expressed forty years back their pious wish of providing free and compulsory education to all children until they complete the age of fourteen years as laid down under article 45 thereof. As the Directives specified in Part IV of the Constitution are not enforceable in the Courts and do not create any justiciable rights in favour of individuals, the courts are not competent to compel the Government to carry out any Directive or to make any law for that purpose. It is the legislature which alone can translate the Directive into law for its effective implementation. As the Directive of free and compulsory education has remained a mere pious wish for over a period of forty years, the Bill now seeks to make the Directive fruitful by way of effecting a law enforceable and justiciable.

Hence this Bill.

NEW DELHI;

June 1, 1990.

SUDHIR GIRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free and compulsory education to all citizens until they complete the age of fourteen years. This would require the establishment of many more educational institutions and employment of teachers. Clause 4 provides that the State shall take steps to eradicate illiteracy in the country within a period of ten years from commencement of the Constitution (Amendment) Act, 1990. Although, the provision has been included in the Directive Principles of the State Policy, our country being a welfare State has to implement it in letter and spirit.

Therefore, the Bill, if enacted, would involve expenditure from the Consolidated Fund of India in respect of schools in Union territories. However, the Central Government has to make financial grants to the State Governments in implementing the provisions of the Bill. It is estimated that a sum of rupees three hundred crores is likely to be incurred per annum from the Consolidated Fund of India. An amount of rupees two thousand crores is also likely to be incurred by way of non-recurring expenditure.

BILL No. 117 OF 1990

A Bill further to amend the Architects Act, 1972.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | | |
|-------------|---|---|
| 20 of 1972. | <ol style="list-style-type: none">1. This Act may be called the Architects (Amendment) Act, 1990.2. In section 25 of the Architects Act, 1972,—<ol style="list-style-type: none">(i) in clause (b), the words "prior to the date appointed under sub-section (2) of section 24" shall be omitted; and(ii) after clause (b), the following clause shall be inserted, namely:—<p style="padding-left: 2em;">"(bb) after attaining the three years diploma in Architecture from any Board of Technical Education in the country has practical experience of ten years with any architectural organisation of the Union or State Government."</p> | <p>Short title.</p> <p>Amend-
ment of
section
25.</p> |
|-------------|---|---|

STATEMENT OF OBJECTS AND REASONS

At present under the Architects Act, 1972, a person who has obtained three years diploma in architecture is not eligible to get himself registered with the Council of Architects even though he has a long experience of working as an Architectural Assistant and like in various organisations of the Union as well as the State Governments.

The Bill seeks to amend the Architects Act, 1972, with a view to providing that persons holding three years diploma in Architecture with ten years practical experience should also be allowed to get themselves registered with the Council. The Bill, if enacted, will enable a large number of young architects to get settled in the profession and more promotional avenues will open for them.

Hence this Bill.

NEW DELHI;
June 22, 1990.

HARISH RAWAT,

BILL No. 113 OF 1990

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. In article 335 of the Constitution, the following proviso shall be added at the end, namely:—

Amend-
ment of
article
335.

“Provided that the concessions, facilities, etc. provided to the Scheduled Castes, Scheduled Tribes and other economically weaker sections of society by public sector enterprises shall also be provided to them by industries in the private sector failing which the various concessions, facilities, reliefs, etc. provided to such industries from time to time shall be withdrawn.”.

STATEMENT OF OBJECTS AND REASONS

Scheduled Castes, Scheduled Tribes and other economically weaker sections of society are the most hard hit lot in our country and the Government has been doing every thing for their betterment. The growth of industry in the country, particularly in the private sector, has been quite appreciable and Government has been announcing various concessions, etc. from time to time for the encouragement of industry and the private sector in particular has been much benefited by it. The benefits arising out of the concessions given by the Government have been restricted to the private industrialists themselves and the Scheduled Castes, Scheduled Tribes and other economically weaker sections of society, which are the prime concern of the Government, have been ignored by them. The various concessions, facilities including reservation in posts and appointments, etc. available to Scheduled Castes, Scheduled Tribes and other economically weaker sections of society in the public sector industries should also be made available to them in private sector industries so that they may also be benefited and may join the mainstream of our national life.

Hence this Bill.

NEW DELHI;
June 22, 1990.

HARISH RAWAT

BILL No. 119 OF 1990

A Bill to provide for employment to every adult unemployed person or for payment of unemployment allowance in lieu thereof

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Provision of Employment Act, 1990.

(2) It extends to the whole of India.

Short title and extent.

2. The Central Government shall provide employment to every adult unemployed person;

Provision of employment.

Provided that the Central Government shall pay an unemployment allowance of rupees five hundred per month to every unemployed person till he is provided with a job.

3. All unemployed persons competing for any employment or appointment to an office under the Government of or any other local or other authority within, a State or Union territory, shall be allowed to travel free of cost by road or rail.

Free travel facility to unemployed persons.

**Exemp-
tion
from
payment
of exami-
nation
fee.**

4. The unemployed persons shall not be required to pay any application fee for appearing in any examination for employment under the Central Government or a State Government.

**Power to
make
rules.**

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The number of unemployed persons is increasing in the country day by day. There is a widespread resentment among the unemployed persons. This situation can lead to a revolt in the country. Therefore, it should be obligatory on the part of the Central Government to provide employment to all unemployed persons and until employment is provided to them, unemployment allowance at the rate of rupees five hundred per month should be paid.

Hence this Bill.

NEW DELHI;

MAHADEO SHIWANKAR

June 26, 1990.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for employment to all unemployed persons and until employment is provided, every unemployed person shall be paid Rs. 500/- per month as unemployment allowance. Clause 3 provides that all unemployed persons appearing for examination or interview in Government jobs shall be entitled to travel free of cost for the purpose. If the Bill is enacted it would involve an expenditure from the Consolidated Fund of India. Although, exact figure cannot be worked out at this stage, yet, it is estimated that an annual recurring expenditure of about rupees five hundred crores is likely to be incurred.

A non-recurring expenditure of about rupees five hundred crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGIS

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules to be made will relate to matters of details only, the delegation of legislative power is of a normal character.

BILL No. 121 OF 1990

A Bill further to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Forest (Conservation) Amendment Act, 1990.

Short title.

69 of 1980. 2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) after clause (iv), the following provisos shall be inserted, namely:—

“Provided that the Central Government shall not withhold its approval for deforestation if the forest land acquired is for public development works such as construction of roads, drinking water schemes, laying of telegraph or telephone lines, electricity lines or any other development scheme for the benefit of the general public;

Provided further that the approval of the Central Government shall not be required if the forest land to be acquired for the purposes as provided in the first proviso is ninety hectares or less.”; and

(ii) the existing *Explanation* shall be re-numbered as *Explanation 1* and after the *Explanation* as so re-numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*—For the purpose of this section any scrub forest, which is treated as a waste land, shall not be treated as a forest.”.

Insertion
of new
section
3C.

3. After section 3B of the principal Act, the following section shall be inserted, namely:—

“3C. The schemes approved by the State Governments and sent to the Central Government for approval shall be disposed of by the Central Government within one month of their receipt.”.

Approval
of schemes
by Central
Govern-
ment
within a
specified
period.

STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 provides that any forest land or any portion thereof may be used for any non-forest purpose provided it has the approval of the Central Government.

The jhudpi jungle, a term used for scrub forest in Maharashtra, is being considered as forest land by the Central Government as the word 'jungle' has been used for that land. It has resulted in stoppage of all the developmental schemes. Therefore, it is necessary to exclude the 'jhudpi jungle' out of the ambit of the forest land as provided in the Forest (Conservation) Act, 1980 so that approval of the Central Government is not required for development of jhudpi jungle or scrub forest.

It is also necessary to make it obligatory on the part of the Government not to refuse to give land for public utility services such as roads, irrigation schemes, telegraph lines, electricity lines, dispensaries, etc. and such matters should be disposed of immediately.

Hence this Bill.

NEW DELHI;

June 26, 1990.

MAHADEO SHIWANKAR

BILL No. 122 or 1990

*A Bill further to amend the Constitution (Scheduled Castes) Order, 1950.
and the Constitution (Scheduled Tribes) Order, 1950.*

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1990.

Amend-
ment of
Sche-
duled
Castes
order.

2. In the Constitution (Scheduled Castes) Order, 1950, in the Schedule, in Part X—Maharashtra,— C.O. 19

(a) in item 8, for the word “Burud”, the word “Burad” shall be substituted; . . .

(b) in item 27, for the word “Holiya”, the word “Holy” shall be substituted.

Amend-
ment of
the Sche-
duled
Tribes
Order.

C.O. 22

3. In the Constitution (Scheduled Tribes) Order, 1950, in the Schedule, in Part IX—Maharashtra,—

(a) in item 18,—

(i) for the word “Dhoba”, the word “Dhobi” shall be substituted;

(ii) the word “Mana” shall be omitted; and

(b) after item 18, the following item shall be inserted, namely:—
“18A. Mana”.

STATEMENT OF OBJECTS AND REASONS

In the Constitution (Schedule Castes) Order, 1950, in Part X—Maharashtra of the Schedule, the caste included in entry 8 is "Burud" whereas actually it is "Burad". In entry 27, the caste included is "Holiya" whereas it is "Holy".

Similarly in the Constitution (Scheduled Tribes) Order, 1950, in Part IX—Maharashtra of the Schedule, the tribe mentioned is "Dhoba" whereas it is actually "Dhobi". Also in entry 18, the "Mana" tribe, which is different from the "Gond" tribe, is not getting all the facilities available to them because the entry begins with the tribe "Gond".

So there is need to correct the names of the castes and tribes in the relevant orders and also there is need to show "Mana" as a separate tribe.

The Bill seeks to achieve the above objectives.

NEW DELHI;
June 26, 1990.

MAHADEO SHIWANKAR

BILL No. 123 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.

Short title.

2. After article 30 of the Constitution, the following article and sub-heading shall be inserted, namely:—

Insertion of new article 31.

"Right to work.

31. (1) All citizens who have attained the age of eighteen years and above shall have the right to work.

Right to work.

(2) Any person who is eligible for employment under clause (1) and not provided with a job shall be entitled to assistance at the rate of rupees five hundred per month from the State till he is provided with a job.

(3) Nothing in clause (1) shall affect the operation of any existing law in so far as it relates to or prevents the State from making any law for the determination of any professional or technical qualification or physical fitness required for any particular kind of job with a view to maintaining the efficiency of administration of the State.”.

STATEMENT OF OBJECTS AND REASONS

The number of unemployed persons in our country, particularly educated ones, is increasing day by day. There is great discontentment among them for not getting employment and out of frustration may indulge in undesirable activities. The youth force, which is full of energy and talent, is being wasted.

Although it is the duty of the State to make effective provision for securing the right to work within the limits of its economic capacity and development, and to public assistance in cases of unemployment, etc., the provision is not enforceable as it is only a Directive Principle of State Policy to be adopted by the State.

In view of unprecedented unemployment situation in the country, the right to work to all citizens should be guaranteed by the State by including the same in the Fundamental Rights. As it may not be possible for the State to provide employment to all the citizens at the same time, some sort of monetary assistance should be given to the unemployed persons till they get employment.

The Bill seeks to achieve above objects.

NEW DELHI;

June 26, 1990.

MAHADEO SHIWANKAR

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all citizens who have attained the age of 18 years and above shall have the right to work. It further provides for the payment of assistance at the rate of rupees five hundred per month to the persons who have not been provided with jobs. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it cannot be ascertained what would really be the amount of money required for providing jobs and assistance to the unemployed citizens. However, the Bill, if enacted, is likely to involve an annual recurring expenditure of about rupees one hundred crores from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crores may be sufficient to start the scheme.

BILL No. 114 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

Short title
and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 311 of the Constitution, part (c) of the second proviso to clause (2) shall be omitted.

Amend-
ment of
article
311.

STATEMENT OF OBJECTS AND REASONS

Article 311 of the Constitution provides for the dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State. It is provided that no such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges. Other safeguards have also been provided to ensure natural justice.

However, in part (c) of the second proviso to clause (2) of the said article it has been provided that no such inquiry shall be necessary if the President or Governor, as the case may be, is satisfied that in the interest of the security of State it is not expedient to hold such inquiry. This, it is felt, is an anachronism and likely to do mischief. The object of the Bill is to do away with this provision.

CHITTA BASU

NEW DELHI;
June 28, 1990.

BILL No. 116 OF 1990

A Bill to repeal the Essential Services Maintenance Act, 1981.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|--|---------------------------|
| 1. This Act may be called the Essential Services Maintenance (Repeal) Act, 1990. | Short title. |
| 2. The Essential Services Maintenance Act, 1981 is hereby repealed. | Repeal of Act
of 1981. |

STATEMENT OF OBJECTS AND REASONS

The Essential Services Maintenance Act, 1981, is considered to be a part of the armoury of repression. It was meant to intimidate the workers, threaten them with arrest and dismissal from the job. It was particularly meant for suppressing the strikes.

Since the Government proposes to involve the workers in the management to encourage industrial democracy, the existence of such statute will be an anathema. The Act, therefore, should be repealed.

Hence this Bill.

CHITTA BASU

NEW DELHI;
June 28, 1990.

BILL NO. 85 OF 1990

A Bill further to amend the Architects Act, 1972.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

20 of 1972.

1. This Act may be called the Architects (Amendment) Act, 1990.

Short title.

2. In section 25 of the Architects Act, 1972,—

Amend-
ment
of
section 25.

(i) in clause (b), the words "prior to the date appointed under sub-section (2) of section 24" shall be omitted; and

(ii) after clause (b), the following clause shall be inserted, namely:—

"(bb) after attaining the three years diploma in Architecture Assistantship from any Board of Technical Education in the country has practical experience of ten years with any architectural organization of the Union or State Government.".

STATEMENT OF OBJECTS AND REASONS

At present under the Architects Act, 1972, a person who has obtained three years diploma in architecture is not eligible to get himself registered with the Council of Architects even though he has a long experience of working as an Architectural Assistant and like in various organizations of the Union as well as the State Governments.

The Bill seeks to amend the Architects Act, 1972, with a view to providing that persons holding three years diploma in Architecture Assistantship with ten years practical experience should also be allowed to get themselves registered with the Council.

NEW DELHI;

April 19, 1990.

P. R. KUMARAMANGALAM.

BILL No. 127 OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990. Short title.
2. In article 124 of the Constitution, in clause (2), for the portion beginning with the words "after consultation with such of the Judges of Supreme Court" and ending with the words "always be consulted", the following shall be substituted, namely:— Amend-
ment of
article
124

"on the recommendation of the National Judicial Commission and shall hold office until he attains the age of sixty-five years:

Provided that the Chief Justice of India shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose.".

Amend-
ment of
article
217.

3. In article 217 of the Constitution, in clause (1), for the words "after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court," the words "on the recommendation of the National Judicial Commission," shall be substituted.

Amend-
ment of
article
222.

4. In article 222 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

"222. (1) The President shall, on the recommendation of the National Judicial Commission, transfer a Judge from one High Court to any other High Court."

Transfer
of a
judge
from one
High
Court to
another.
Amend-
ment of
article
231.

5. In article 231 of the Constitution, clause (2) shall be omitted.

6. In article 233 of the Constitution,—

(i) in clause (1), for the words "in consultation with the High Court exercising jurisdiction in relation to such State", the words "on the recommendation of the National Judicial Commission", shall be substituted; and

(ii) in clause (2), for the words "High Court", the words "National Judicial Commission" shall be substituted.

Inser-tion
of new
Part
XIIIA.

7. After Part XIII of the Constitution, the following Part shall be inserted, namely:—

"Part XIIIA

NATIONAL JUDICIAL COMMISSION

Defini-
tion.

307A. For the purposes of this Part, a 'Judge' means and includes a Judge of the Supreme Court, (other than the Chief Justice of India) or a High Court or a district Judge, as defined under article 236, and the 'State' means Union Government or a State Government.

Constitu-tion and
composi-tion of
Na-tional
Ju-dicial
Com-mis-sion.

307B. (1) There shall be constituted a Commission, to be known as National Judicial Commission by the Central Government.

(2) The Commission shall consist of—

(a) the Chief Justice of India, who shall be the Chairman of the Commission; and

(b) two persons who have held the Office of a Judge of the Supreme Court and two persons who are holding the office of a Judge of a High Court of any State, as members of the Commission.

(3) The members of the Commission shall be appointed by the President.

(4) The tenure of the Commission shall be five years and upon completion of the period of five years, the members of the Commission shall cease to hold office as such members:

Provided that the Chairman of the Commission shall hold office as long as he holds the office of the Chief Justice of India.

307C. The functions of the Commission shall be as follows:—

(i) to recommend to the President or to the Governor of a State, as the case may be, about appointment, posting and transfer and promotion of Judges;

(ii) to enquire into allegations of corruption and misconduct against the Judges and to recommend suitable punishment for the guilty; and

(iii) to recommend to the State measures for judicial reforms and for quick disposal of cases pending in various Courts in the country.

307D. The recommendations of the Commission shall be binding on the State.”.

Functions
of the
Commiss-
sion.

Recom-
menda-
tions to
be bind-
ing.

STATEMENT OF OBJECTS AND REASONS

The transfer of Judges from one State to another has evoked great discontentment amongst the Judges in the country. Their contention is that they are being transferred due to the administrative intervention. Allegations have been made in the past that Judges of the courts are appointed by the Government according to its convenience and the Judges so appointed are obliged to the administration and are unable to give justice to the people impartially. It has also been alleged that Judges of the courts are transferred not in public interest and justice but for the convenience of administration.

Moreover, there have been instances in the recent past that several advocates' associations have passed resolutions expressing loss of confidence against Judges on account of corruption and misconduct.

Therefore, there is a great need to set up a National Judicial Commission which will be responsible to deal with the appointment, promotion and transfer of Judges and also recommend the action to be taken against the Judges against whom charges of corruption and misconduct have been levelled. Democracy succeeds only when the judiciary is free from administrative interference and its control. As such, this legislation will go a long way in providing protection to the Judges and will also be a check on the Judges.

Hence this Bill.

NEW DELHI;
June 28, 1990.

PRAKASH KOKO BRAHMBHATT

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for the constitution of the National Judicial Commission. The National Judicial Commission will have as its Chairman the Chief Justice of India, and as its members, two retired Judges of Supreme Court and two Judges of a High Court from a State. As far as the serving Judges are concerned, they are already functionaries and will draw the travelling and other allowances from the respective budgets. However, as far as retired Supreme Court Judges are concerned, some expenditure will be involved from the Consolidated Fund of India in respect of payment of travelling and other allowances to them. Moreover, there will be some miscellaneous expenditure in regard to administration of the National Judicial Commission. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five lakhs is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

BILL No. 126 OF 1990

A Bill to provide for the welfare of children.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- | | |
|---|--|
| 1. (1) This Act may be called the Child Welfare Act, 1990. | Short title, extent and commencement. |
| (2) It extends to the whole of India. | |
| (3) It shall come into force at once. | |
| 2. In this Act, “child” means any person who has not attained the age of fifteen years. | Definition. |
| 3. Notwithstanding anything contained in any other law for the time being in force, no child shall be employed to work. | Prohibition on employment of children. |

4. Any child, who is—

Children home.

- (i) an illegitimate child;
- (ii) found begging;
- (iii) disabled or a destitute;
- (iv) an orphan,

shall be sent to the children home, to be established by the Central Government in every district.

5. The children, mentioned in section 4, shall be provided with—

Facilities to children.

- (a) free education, including higher and technical education; and
- (b) free medical aid.

6. The Central Government shall reserve posts for the children, mentioned in section 4, in Government services after they have attained the age of eighteen years.

Reservation of posts.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Even after forty-three years of independence, a large number of children are forced to work either by their parents or by their guardians. A large percentage of children, below the age of fifteen years, will be found working in factories, private firms and houses. These children have no future. They are not getting nourishing food and thus many die prematurely. Also, in a number of families, children are forced to beg. Some of these children may be very much talented, but due to lack of facilities and opportunities their talent cannot be exploited for their own welfare and for the welfare of the country. Children are the future of the country. It is the responsibility of the Government to ensure that children are given opportunities and facilities to develop in a healthy manner and they should be protected from all kinds of exploitation.

It is, therefore, necessary that a legislation for the welfare of children and to protect them from exploitation is enacted.

Hence this Bill.

NEW DELHI:

PRAKASH KOKO BRAHMBHATT

July 6, 1990.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that all children who are illegitimate, beggars, etc. shall be sent to the children homes to be established by the Central Government in every district. Clause 5 provides for free education, including higher and technical education, and medical facilities to children by the Central Government. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty lakhs per annum.

It is also likely to involve a non-recurring expenditure of about rupees five lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only and as such the delegation of legislative power is of a ~~normal~~ character.

BILL No. 115 OF 1990

A Bill to provide for the curtailment of expenditure on marriages and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Curtailment of Expenditure on Marriages Bill, 1990.

(2) It extends to the whole of India.

Solemni-zation of mar-riages.

2. All marriages in India, irrespective of caste, colour or creed of the bride or the bridegroom, shall be solemnized in a simple ceremony before the head priest, by whatever name called, of the concerned community or religion, who shall certify the marriage in the presence of relatives and friends of the bride and bridegroom:

Provided that the number of relatives and friends invited to attend any function organised for the solemnization of a marriage shall not be more than fifteen.

3. Irrespective of caste, colour or creed of the bride or bridegroom, there shall be no expenditure on a marriage to be solemnized.

Explanation.—For the purpose of this Act “expenditure on a marriage” means and includes expenditure incurred during marriage on invitation cards, decoration, illumination, fireworks, luncheon, dinner, clothes, ornaments and gifts.

Curtailment of expenditure on marriage.

4. Notwithstanding anything contained in any other law for the time being in force, no court shall entertain any application for divorce or separation for atleast ten years after solemnization of the marriage as provided under section 2.

Courts not to entertain application for divorce or separation.

5. Any person who contravenes the provisions of this Act shall be punished with imprisonment which may extend upto five years and with a fine upto rupees five thousand:

Punishment.

Provided that a person who contravenes the provisions of this Act, if he is in service, whether in the offices or establishments under the control of Central Government or in the private sector, he shall also be removed from such service and a person who contravenes the provisions of this Act and is not in service shall not be eligible for appointment in the offices or establishments under the control of Central Government or in the private sector:

Provided further that a person, who contravenes the provisions of this Act, is a Union Minister or a member of either House of Parliament, such person shall also be disqualified for being and for being chosen as a member of either House of Parliament.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It has been found that the marriages of all the religious communities in India are celebrated with great pomp and show. Lakhs of rupees are spent on decoration and marriage feast. In addition to this, cash and valuable items are exchanged. This has been creating great unrest among those people who have no money to spend lavishly. Such people are forced to adopt corrupt practices to get huge sums of money. Corruption in administration and in all walks of life has, therefore, increased which is harmful to the progress of the nation. It has been observed that even the marriage performed with expenditure in lakhs of rupees results in bride burning, discontentment between the couple and divorce or separation. The people have started bidding for their sons in marriages. There is, therefore, need to have a legislation to curtail expenditure on marriages and not to take marriages as trade so as to save the people from adopting corrupt practices.

Hence this Bill.

PRAKASH KOKO BRAHMBHATT

NEW DELHI;

June 26, 1990.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules to be made will relate to matters of detail only which cannot be provided for in the Bill itself, the delegation of legislative power is of a normal character.

BILL No. 120 OF 1990

A Bill to provide for ceiling on income of families of employees and professionals and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Ceiling on Income Act, 1990.
- (2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise require,—

(i) “employee” means an employee of the Central Government or the Public Sector Undertakings, establishments or organisations under the control of the Central Government or Union territory Administrations or in the private sector;

(ii) “family” means husband, wife and two minor children; and

(iii) “professional” means a person professing/practising politics, medicine, science, law, auditing or such other profession or a person engaged in business.

3. Notwithstanding anything contained in any other law for the time being in force, the maximum income of—

Ceiling
on
income.

(i) an employee shall not exceed rupees five thousand per month; and

(ii) a professional shall not exceed rupees ten thousand per month.

4. If the income of family of an employee or a professional exceeds rupees five thousand or rupees ten thousand per month, respectively, the amount in excess of such amount shall be deposited by the head of the family in the Government Treasury:

Provided that an amount not exceeding fifty per cent. of the money so deposited in the Government Treasury shall be refunded to,—

Excess
income
to be
deposi-
ted in
the
Govern-
ment
Treas-
ury.

(i) the head of the family in case of death in the family;

(ii) the legal heir in case of death of the head of the family;

(iii) the person concerned for the loss suffered as a result of any natural calamity; or

(iv) construct/purchase house for self occupation.

5. If any person conceals his income or does not deposit the amount, in excess of the ceiling fixed, he shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to rupees ten thousand or with both.

Punish-
ment.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power
to make
rules.

STATEMENT OF OBJECTS AND REASONS

Atleast 80 per cent. of the population in India has income of less than Rs. 1,000/-per month and the rest are those whose income is very high, with the result that there is no economic and social equality. Some people have money far in excess of their needs. This disparity in income has created frustration amongst large number of people in the country. Therefore, there is a need to fix a limit on income of a family.

It has been proposed in the Bill to fix a ceiling on income of a family of an employee or a professional. A provision is also proposed to be made for depositing the excess income in the Government Treasury with a view to check the expenses incurred by them. A step in this direction will give equal opportunity for all to progress.

Hence this Bill.

PRAKASH KOKO BRAHMBHATT

NEW DELHI;

June 26, 1990.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matter of detail only. The delegation of legislative power is, therefore, of a normal character.

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K .C. RASTOGI,
Additional Secretary.

